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A. THEODORE WIRGMAN, B.D., D.C.L.



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THE
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THE
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CIVIL POWER;

OR,

THE RELATIONS OF CHURCH AND STATE
HISTORICALLY CONSIDERED,
WITH SPECIAL REFERENCE TO THE
RESTORATION OF PRIMITIVE CHURCH PRINCIPLES
IN THE
CONSTITUTIONS AND CANON LAW OF THE AMERICAN,
IRISH, SCOTTISH, AND COLONIAL CHURCHES.

BY

A. THEODORE WIRGMAN, B.D., D.C.L.,

etc Foundation Scholar of Magdalene College, Cambridge; Vice-Provost and Rector
of S. Mary's Collegiate Church, Port Elizabeth, South Africa.

Author of "*The Prayer Book, with Historical Notes and Scripture Proofs,*"
"*The Lord's Prayer and the Beatitudes,*" "*The English Reformation*
and the Book of Common Prayer," "*The Sevenfold Gifts of*
the Spirit," "*The Spirit of Liberty, and other Sermons,*"
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PREFATORY NOTE.

THE following Essay has been accepted by the five Divinity Professors of the University of Cambridge as a dissertation for the Degree of Bachelor of Divinity. I desire to express my special obligations to the admirable manual of American Ecclesiastical Law compiled by Judge Hoffman some forty years ago, which has been most helpful and useful to the Colonial Churches, as a whole, on account of its sound foundation upon the universally accepted principles of Canon law. I desire also to express my thanks to Mr. G. D. Goodman and Mr. A. W. Goodman, B.A., of Christ's College, Cambridge, who have most kindly prepared the Table of Contents and the Index, which will render the volume more generally useful.

A. T. W.

Magdalene College, Cambridge,
October, 1893.

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NOTE.—The following are the references to the legal cases quoted in the following pages :—

- Forbes *v.* Eden, pp. 160, 163. *Law Reports*, 1 Sc. & Div. 568.
 Long *v.* Bishop of Capetown, pp. 105, 106, 149. 1 Moore, Privy Council, N.S., 461.
 Merriman *v.* Williams, pp. 108, 109, 161, 162. 51 *Law Journal*, Privy Council, 95.
 Regina *v.* Eton College, pp. 118, 148, 149. 8 Ellis & Blackburn, 635.

THE CHURCH AND THE CIVIL POWER.

CHAPTER I.

SOME PRELIMINARY CONSIDERATIONS.

THE tripartite nature of man is created in the Image and after the likeness of God. S. Paul prays for the Thessalonians in words that touch the very aim and essence of the true life of humanity, "*The Very God of peace sanctify you wholly; and I pray God your whole spirit and soul and body be preserved blameless unto the coming of our Lord Jesus Christ*" (I. Thes. v. 23). In his comment upon this passage S. Irenæus says:

Et quam utique causam habebat his tribus, id est, animæ et corpori et spiritui, integram et perfectam perseverationem precari in adventa Domini, nisi reintegrationem et adunitionem trium et unam et eandem ipsorum sciebat salutem?—S. Irenæus, Bk. V., cap. 6.

"What reason had the Apostle to pray for a perfect preservation of those three elements, that is, *soul, body, and spirit*, unless he foreknew the reunion of all three, and that there is one and the same salvation for them all?"

The words of S. Irenæus lay stress upon the *unity* of the tripartite nature of man, and make plain the fact that body, soul, and spirit are knit together unto everlasting life in one and the same salvation.

The Christian religion rises above the level of the Platonic conception of the immortality of the soul, and is absolutely at war with the Neo-Platonism of Plotinus, who thanked God that he was not linked to an immortal body. The immortality "brought to light through the Gospel" (II. Tim. i. 10) is the immortality of the whole man, *body, soul, and spirit*, wrought out by a living union with the Incarnate Son of God.

Our religion, therefore, deals with the body, as much as it does with the soul and spirit. Since God has chosen to consecrate and sanctify the material as well as the spiritual side of human nature, it necessarily follows that the religion revealed to us by God through our Lord Jesus Christ must appeal to man through visible means as well as by invisible grace.

The sacramental principle of the "outward visible sign," as the channel of the "inward spiritual grace," has a wider scope than its primary application to the two great Sacraments of the Gospel. It is part of God's scheme for the salvation of man that the Catholic Church, as an outward and visible society and organisation, should be the channel of spiritual

gifts and graces, and that it should appeal to each portion of man's tripartite nature as the visible instrument and agency of "the life hid with Christ in God" (Col. iii. 3).

The Quaker's denial of visible sacraments is logically followed by his denial of a visible Church. It is illogical for Christians who believe in visible sacraments, even if their belief touches only the level of Zwinglianism, to deny the existence of a visible Church, or to substitute for the divinely ordered polity and unity of the Church, "which is the pillar and ground of the Truth" (I. Tim. iii. 15), a theory of polychurchism which is untenable because it is unscriptural.

The Church Catholic of the Creeds was no new creation of the Day of Pentecost. God worked under the old covenant by means of the visible and organised polity of the Jewish Church whose special mission it was to prepare the world for the Gospel. Our Lord came not to destroy the law but to fulfil. And so the narrowness and nationalism of the Jewish Church was broadened out by the Pentecostal outpouring into the glorious liberty of the Church, which was built "*upon the foundation of the Apostles and Prophets, Jesus Christ Himself being the Chief Corner Stone*" (Eph. ii. 20).*

* See Sermons XIV. and XV. in Newman's *Sermons on Subjects of the Day*.

The Jewish Church possessed a Priesthood, a Ritual, and an ordered discipline. This "ministration of condemnation," as S. Paul terms it, was glorious, even though it was but a preparation for that "ministration of righteousness"—the ministry and polity of the Catholic Church—which exceeded it in glory (II. Cor. iii. 9).

The Catholic Church, therefore, has, as its "historic backbone," the orderly succession of the Threefold Apostolic Ministry, and, as the Body of Christ, it has "power to decree rites and ceremonies and authority in controversies of faith" (Art. XX.). It possesses its own laws, and its own discipline, as a matter of inherent right. As the City of God it claims the allegiance of all baptised Christians, even though some of them may be ignorant of the fact that it is their true spiritual home, and organise themselves into a series of religious societies of human origin. Its mission is to "go into all the world, and preach the Gospel to every creature" (S. Mark xvi. 15).

The organisation and office of the State is of an essentially different character. The "powers that be" are ordained of God, but their sphere of influence does not touch the spiritual life of man. The State deals with *crime*, since the criminal endangers the peace and social well-being of the community. But it does not deal with *sin*, as a violation of the laws of God's spiritual kingdom.

It is impossible to *identify* the Church of God with any particular form of State government, whether it be monarchical or republican.

The members of the Church and the members of any particular nation or state may be the self-same individuals, although in modern times such an identification is unlikely. But even if this happened to be the case the authorities of the Church and the authorities of the State would not be identical. The Jewish kingdom succeeded the Theocracy, and even when dealing with the identity which existed between the Jewish Church and the Jewish nation we cannot forget that Jehoshaphat carefully severed the spiritual and secular jurisdiction over his people when he told them that Amariah, the High Priest, was set over them "in all matters of the Lord," and "Zebadiah, the son of Ishmael, for all the King's matters" (II. Chron. xix. 11).

The *methods*, as well as the objects of the spiritual and secular jurisdiction, are essentially different.

The State employs physical force to compel obedience and maintain order. The military force of the State lends effectual coercive jurisdiction to the decrees of the law-giver and the sentences of the judge. The Church knows nothing of physical force in the exercise of her discipline. Where she has yielded to the temptation to employ it she has miserably failed to execute her divine functions.

All that the Church can legitimately ask from the State is the protection of her temporal possessions. She has a right to the aid of civil authority if her foes are of her own household.

If she canonically condemns one of her own ministers and officials for violation of the conditions on which he holds and administers a certain portion of her temporal possessions, and if he refuses to give up possession of the temporalities which he is unlawfully using or administering, then the State protects the Church by ejecting the offender, just as it would protect a man who had been ejected from his own house and dispossessed by his neighbour's violence.

Such a friendly concurrence and concord between the Church and the civil power is the best realisation of Count Cavour's famous ideal of "a Free Church in a Free State."

CHAPTER II.

THE RELATIONS BETWEEN THE CHURCH CATHOLIC AND THE CIVIL POWER FROM THE AGE OF CONSTANTINE TO THE MEDIÆVAL PERIOD OF CHURCH HISTORY.

THE preliminary considerations that have been adduced have cleared the way for the acceptance of the following definition of the Church :—

“ The Church is a society of men instituted for the worship of God, bound together by the profession of a common faith, the practice of divinely ordained rites, and resting upon a visible external order.”—Phillimore, “ Eccl. Law,” Vol I., page 1.

As the Kingdom of God upon earth, the Church rests upon the abiding presence of her Lord and King, in accordance with His own promise, “ Lo ! I am with you alway (πάσας τὰς ἡμέρας), even unto the end of the world ” (S. Matt. xxviii. 20).

This promise is the guarantee of the continued existence and inherent vitality of the Church, as God’s missionary agent to convert the world, and as the covenanted sphere of the operations of the Holy Spirit, whereby men are compacted and joined together into the unity and power of the life of Christ.

It follows, therefore, that the action of the State with regard to the Church, whether hostile or friendly, cannot touch the *essence* of her life.

Before considering the relations of Church and State under Constantine, it will be necessary to examine briefly the relations between the Church and the Roman Empire previous to the Edict of Milan (A.D. 313). The Council of Jerusalem (Acts xv.) ensured the ultimate victory of S. Paul's principles of Gentile liberty against the Judaizing Christians.

The Church appealed to the whole world, "Barbarian, Scythian, bond and free," and offered herself as the spiritual home of all nations on an equal footing. The Roman Empire desired to rule the world by uniting all nations under one imperial sway, and the Roman statesmen were not always mindful of the gentler precept of the maxim, *Parcere subjectis et debellare superbos*.

The theory of the Empire was that a man was, before all things, a citizen. His secular duties came first, and his religious duties were quite in a subordinate place. Hence the claim on behalf of the State to regulate the religion of its citizens. The Pagan Empire thus put forth in its completeness that theory of the subordination of religion to the State, which was subsequently advocated at the Reformation period in the Theses of Erastus (A.D. 1589), and in the "*Leviathan*" of Hobbes (A.D. 1651). It was inevitable

that the Church and the Pagan Empire should stand face to face in irreconcilable antagonism.

Sometimes this antagonism of the State was almost dormant and passive. Sometimes, under a Decius or a Diocletian, the State actively persecuted the Church with a merciless violence.

During a respite from persecution in the reign of Gallienus (A.D. 260-288), the Church was recognised as a corporation capable of holding property, and Christianity was tolerated as a *religio licita*.

For a brief period the relations of the Church and Empire were upon a sounder basis than they ever were under the Christian Cæsars. The case of Paulus of Samosata proves this. As Bishop of Antioch he was condemned for heresy by a Council of Bishops, but he still retained his hold upon the temporal possessions of the Church. The Emperor Aurelian, in A.D. 272, ordered him to give up possession of the buildings belonging to the Church of Antioch to the Bishops who were in communication with the Bishops of Rome and Italy.*

In this case the Civil Power exercised its due function towards the Church, and protected her temporal possessions by ejecting from her property a Bishop whom she had condemned.

This protection the Church has a right to demand from every civil government.

* Euseb. H. E., vii. 30.

We have now to consider the relations of Church and State subsequent to the Edict of Milan (A.D. 313). We have no space to consider the political events which led up to Constantine's Edict of toleration, and we cannot examine the causes which placed a favourer of Christianity upon the throne of the Cæsars. What Tertullian had considered virtually impossible,* came upon the Roman world as the logical consequence of Diocletian's failure to annihilate the religion of Christ. When we consider the attitude of Constantine towards Christendom, we must remember that he was statesman enough to see that Paganism was doomed, and that he was possessed by the ideas of the Pagan Empire with regard to his functions as the regulator of his subjects' religion. He admired Christianity, but was not baptised until just before his death in A.D. 337. His legislation was distinctly influenced by his Christian advisers, and he desired to unite the Church and the Empire. He imbued the Eastern Church with the idea that the Emperor held spiritual as well as temporal sway as *summus episcopus*, and he founded the tradition of Church and State in the East, which finds its modern expression in the Erastian sanctity which encompasses the person of the Czar of all the Russias.

* *Sed et Cæsares credidissent, si aut Cæsares non essent sæculo necessarii, aut si et Christiani potuissent esse Cæsares.*—Tert. Apol. 21.

His removal of the seat of Empire to Constantinople laid the foundations of the temporal power of the Papacy, and paved the way for its subsequent spiritual claims, although the so-called "Donation of Constantine" is an admitted forgery.

The Emperor of the West rapidly became the inferior of the Pope, and the final extinction of the Western Empire left the Pope supreme in Western Christendom. The ready acquiescence of the Church in Constantine's legislation between A.D. 313 and the date of the Nicene Council in A.D. 325 may be explained partly by the natural reaction of rest after persecution, and partly because there were no commanding Church leaders, between the death of S. Cyprian and the rise of S. Athanasius. Men, like Hosius of Cordova, or the courtly Eusebius of Cæsarea, were not strong enough for the times. When the Nicene Council brought S. Athanasius to the forefront of the battle, the Church had obtained a leader of great power. But the Empire had already gained a vantage ground of interference, which made his after life one long struggle against heresy backed by the Civil Power. The banishments and persecutions endured by the champion of the Creed of Nicæa shewed conclusively that the evil principle of permitting State interference in ecclesiastical matters had borne bitter fruit.

Constantine's interference with the Donatist schism

shews that he considered himself within his rights as " Pontifex Maximus, " in settling religious disputes in any part of his Empire. He ordered the Western Bishops to meet in Synod, at Arles (A.D. 314), and when the schism still remained unhealed he dealt with it by an Imperial rescript, and the Donatists became disaffected and openly rebellious.

If Constantine had dealt with the Donatists as Aurelian dealt with Paulus of Samosata, the results might have been very different. The debt of gratitude the Church owes to Constantine for convoking the General Council of Nicæa, must necessarily be tempered by the fact that he first banished Arius and then S. Athanasius, and that finally he sanctioned a sacrilegious restoration of Arius to communion which was only hindered by the death of the heresiarch in the moment of his triumph.

We do not desire to forget the difficulties of Constantine's position, or to ignore his great services to the Church. We remember also his address to the Bishops at the Council of Nicæa, when he used the words, " Ye, indeed, are overseers of the things which are within the Church, I of those things that are without it." But the theory of Constantine was not borne out by his practice, and we trace the true outcome of his ecclesiastical policy in the miseries which the Church endured under the rule of his sons. The Church was degraded by the miserable contro-

versial intrigues of the nominally Christian court of Constantius. The constant interference of the Empire in Church matters brought the Christian religion into disrepute, and was indirectly the chief factor in the apostasy of Julian. The attempted revival of Paganism by the Emperor Julian proved an indirect blessing to the Church in liberating it from the dangers of Constantine's policy of benevolent interference.

Julian's failure paved the way for Jovian's policy of general religious tolerance.

His successor Valentinian went a step further, when he wrote in answer to a request to sanction a Council of Bishops : " It is unlawful for me, who am placed amongst the laity, to meddle with matters of faith. Let the priests and bishops to whom this case belongs meet apart by themselves whenever they will " (Sozomen vi. 7). But this same Emperor supported Auxentius, the Arianizing Bishop of Milan, against Hilary of Poitiers, and Hilary's letter to the faithful, after the Emperor forced him to leave Milan, contains a solemn warning against the danger of allowing the Church to lean upon the support of the State (Hil. c. Aux.).

It is possible to quote parallel expressions to that of Valentinian from the writings and sayings of other Emperors up to, and even beyond the period of Gregory the Great (A.D. 590), which Archbishop

Trench considers the true beginning of the middle ages. Prebendary Wayland Joyce, in his well-known work, "The Sword and the Keys," gives a *catena* of such opinions expressed by Gratian, Theodosius the Great, Honorius, Theodosius II., Marcian, and the great legist Justinian, down to the time of Basilus, A.D. 867 ("The Sword and the Keys," Chap. II., pp. 6 to 11). But the fact that the Christian Cæsars knew that the civil and spiritual jurisdictions ought to have been kept distinct, and the further fact that in some cases they *did* keep them distinct, does not do away with the general outcome of their policy, which was Byzantine Christianity.

The fall of Constantinople (A.D. 1453) was the long delayed logical consequence of a succession of subservient Patriarchs and Emperors who were ecclesiastical despots. The Iconoclastic controversy manifested the truth of Archbishop Trench's *dictum* that "a priest-king is bad enough, and this the history of Western Christendom has abundantly shewn; but an Emperor who demands also to be Pope—a *king-priest*, this, which was the persistent claim of the Byzantine autocrats, is infinitely worse" (Trench, *Mediaeval Church Hist.*, p. 98).

The fall of Rome and the Western Empire saved Western Christendom from a "King-priest," although it ultimately paved the way for a "Priest-king."

The Western Church, under Leo I. and Gregory

the Great, emancipated itself by degrees from undue Imperial authority, and took occasion by the hand in dealing with the new nations that succeeded to the ancient heritage of Imperial Rome. The breaking up of the ancient Roman civilisation in the West made men despair of society. The Church was the only stable element, and S. Augustine's "City of God" was written with the purpose of pointing men to God's Kingdom on earth as the only security for society, the only guardian of true principles of morality and order, the Heavenly City of Refuge, now that the great earthly city and its polity had been brought to ruin.

The new nations had to be brought into the fold of Christ. S. Augustine craves no alliance of the Church with the new-born States and Kingdoms. The laws and customs of Teuton and Frank were to be observed by Churchmen so long as they ministered to social well-being. The Church had no quarrel with strange laws and foreign customs contrary to the old order of the Empire, so long as public peace was preserved, and so long as no hindrance was put into the way of the one religion of Christ.*

* Hæc ergo coelestis Civitas dum peregrinatur in terrâ ex omnibus gentibus cives evocat, atque in omnibus linguis peregrinam colligit societatem; non curans quicquid in moribus, legibus institutisque diversum est, quibus pax errena vel conquiritur vel tenetur: nihil eorum rescindens, nec destruens immo etiam servans et sequens: quod licet diversum est in diversis nationibus ad unum tamen eundemque finem terrenæ pacis intenditur, si religionem qua unus summus et Verus Deus colendus docetur, non impedit.—S. Aug., *De Civit. Dei.*, XIX., cap. 17.

We seem to see in S. Augustine's words the Scriptural ideal of rendering "unto Cæsar the things that be Cæsar's, and unto God the things which be God's" (S. Matt. xxii. 21).

But S. Augustine's ideal was imperfectly realised. The Bishop of Rome gradually became the central figure of Western Europe, and the idea of a universal spiritual Empire, centred in the theocratic rule of the Patriarch of the West, took definite and formal shape.

Mediæval Europe was in a perpetual condition of political ferment and unrest. The theory of the Roman Pontiff, as the spiritual keeper of the peace of Europe, the central moral authority whose influence should cause kings and princes to do judgment and reign in righteousness, was at variance with the facts. The Lombards, who had expelled the power of the Eastern Emperors from Italy, were bitterly hostile to the Popes. The Franks were the mightiest nation of the new Europe, and their support became necessary to the Papacy. The coronation of Pepin as King of the Franks (A.D. 752) is a landmark in history. In his person the powerful Mayors of the Palace, who had so long been virtual rulers, finally supplanted the effete dynasty of the Merovingian Kings. The Pope sanctioned the usurpation, and Pepin became the loyal upholder of the Papacy. He defeated the Lombards in A.D. 755, and his son Charlemagne overthrew the Lombard kingdom in A.D. 774. He gave the Pope

a portion of the territory conquered from the Lombards, and on Christmas Day, A.D. 800, Pope Leo III. crowned Charlemagne in S. Peter's at Rome as the Emperor of the West. This fact is the pivot on which mediæval history revolves. Once more there is a temporal over-lord of Western Europe. The head of the Holy Roman Empire claims the position of a world-king. But he is the faithful son of the spiritual over-lord of the West. The world-king owes his position to the world-priest. The Pope is protected by the Emperor in temporal things. The Emperor is protected by the Pope in spiritual things. In theory, the alliance of Pope and Emperor was an alliance of Church and State on equal terms, but in practice, rivalries sprung up and the feuds between Popes and Emperors robbed Europe of its peace. The Pope claimed to be a Spiritual *Emperor*, representing Christ ruling the nations with a rod of iron. The Emperor claimed to be a secular *Pope*, representing God's rule over the kings and princes of the earth.

"These two powers—the Empire and the Papacy—had grown up with indefinite and necessarily conflicting relations, each at once above and beneath the other; each sovereign and subject, with no distinct limits of sovereignty or subjection; each acknowledging the supremacy of the other, but each reducing that supremacy to a name or less than a name" (Milman).

The relations between Church and State on these terms naturally became impracticable and impossible. The downfall of the mediæval Papacy was as rapid as its rise, for the attempt of the Church to dominate the State is as foreign to God's purposes as it is for the Church to yield tamely to undue State interference. We may feel that Hildebrand and other strong men who filled the Papal chair in the middle ages were powerful for righteousness against lawless kings, robber barons, and the general disorders of feudalism. But the true relations of the Catholic Church to the Civil Power are not to be traced in the arrogance of the Mediæval Papacy or in the subservience that resulted in Byzantine Christianity.

CHAPTER III.

THE RELATIONS OF CHURCH AND STATE IN ENGLAND UP TO THE PERIOD OF THE REFORMATION, AND THE TUDOR DEVELOPMENT OF THE ROYAL SUPREMACY, TRACED FROM THE PREVIOUS CLAIMS OF ENGLISH SOVEREIGNS.

THE final withdrawal of the Roman power from Britain (A.D. 400), followed as it was by "the making of England" by the Angles, Jutes, and Saxons, had the effect of isolating the country from Europe until the time of the Norman Conquest. The heathen Anglo-Saxon Kingdoms, which were founded upon the ruins of Romano-Celtic Christianity, maintained a rude insular independence, and when the mission of S. Augustine (A.D. 595) converted the Kentish kingdom to Christianity, Pope Gregory's wisdom led him to avoid all attempts to mould the infant Church of England upon a model of exact conformity with Roman usages. When S. Aidan, the true Apostle of England, had completed the work S. Augustine had begun, and when Archbishop Theodore of Tarsus had consolidated the Anglo-Saxon Church, and welded together the discordant elements of Roman and Celtic Christianity, the Church of England was

distinctly national, and tinged with a spirit of independence. It was in loyal and close communion with Western Christendom, without being so closely identified with it as other Churches were. When the unity of the Church under Archbishop Theodore had prepared the way for the unity of the Heptarchy under Egbert, the Anglo-Saxon King took up the position of an independent monarch, who owed no fealty to the Emperor of the West as his over lord, and whose realm lay outside the sphere of the Holy Roman Empire. This independence was manifested in the relations of Church and State, which were neither Papal or Byzantine.

King Withred's mixed council of Clergy and laity at Brasted, in A.D. 696, forestalled "Magna Charta," by their decree: "Let the Church be free, and maintain her own judgments." But this declaration of the freedom of the Church was not Papal, but catholic and constitutional. The laity had their share in making it, as the Barons afterwards had at Runnymede.

When King Edgar (A.D. 969) said to Archbishop Dunstan and his suffragans: "I wield the sword of Constantine, you that of Peter," he did not mean to claim the position of a Byzantine autocrat towards the Church. He was only asserting the Imperial position of an English King as "the peer alike of the 'Imperator' of the West, and of the Basileus of the

East,"* a position which is symbolised by the Imperial eagles embroidered on the coronation mantle of the Sovereigns of England, and which afterwards found expression as follows, in the Preamble of the Statute of Appeals (24, Henry VIII., cap. xii.): "Whereas by divers sundry old authentic histories and chronicles it is manifestly declared and expressed that this realm of England is an Empire, and so hath been accepted in the world, governed by one supreme head and king, having the dignity and royal estate of the Imperial crown of the same," &c.

We shall find also that a quasi-patriarchal position was sometimes attributed to the Archbishop of Canterbury, as Primate of the Empire of England. The phrase "*alterius orbis Papa*," which was applied to Archbishop Anselm at the Council of Bari by the Pope himself, may have been a mere compliment. But the words were significant, and have proved to be prophetic. The Primate of Anglican Christendom at the present day exercises a primacy in every quarter of the globe. The insular Church of England has become a world wide Communion, and the Anglican Communion, as representing the *quod semper, quod ubique, quod ab omnibus* of the Primitive Church, has become a pivot of unity and a possible rallying point for Latin, Oriental, and Teutonic Christianity.

* Freeman, "Norm. Conq.," I., page 142.

The fact that England is, and always has been, an independent Empire has permanently influenced the relations of Church and State.

It is, of course, true that these relations were from time to time thrown off their balance, and disturbed by foreign influences, and by Papal and Regal encroachments. The controversy on Investitures between Henry I. and Archbishop Anselm was a reflex of the same controversy within the sphere of the Holy Roman Empire. The humiliation of King John by Innocent III. is paralleled by the victory of the Popes in their contest with the Hohenstaufen Emperors. And then, on the other hand, Henry VIII., whilst theoretically claiming the Royal Supremacy of his predecessors, practically established a Byzantine autocracy carefully veiled under the forms of law. It will be convenient to examine briefly the evidence of history upon the three following points :

- (a.) *The relations of the Convocations, or Church Synods, to the State as represented by Parliament.*
- (b.) *The position of Church Courts, and the distinction between the ecclesiastical and civil jurisdictions.*
- (c.) *The claims of English Sovereigns in ecclesiastical matters, or the growth of the Royal Supremacy.*

The Catholic Church from the date of the Council of Jerusalem has held her Councils and Synods as

a matter of inherent right. Before the Edict of Milan the Church held her Synods apart from all civil sanction. The idea that Synods could not meet without the consent of the Civil Power arose from the policy of Constantine, and was partially owing to the view that a large assembly of subjects could not be held without the sanction of the Emperor. The idea is essentially mediæval and foreign to the true ideal of Church life and order, which is always in harmony with political and social freedom. It is interesting to note that the Church of New Zealand has added the following explanatory words to Article XXI.: "It is not to be inferred from this Article that the Church in the Colony is hindered from meeting in Council without the authority of the Civil Power."

I.—The Anglo-Saxon Church had its National and Provincial Synods according to the Canons of the Catholic Church (5th Canon of Nicæa). Archbishop Theodore held the Synod of Hertford in A.D. 673. In A.D. 680, another Synod was held at Hadfield, and a Witan, or civil assembly of Clergy and laity, was held afterwards. Another Council was held in A.D. 742, when Cuthbert was Archbishop of Canterbury, and its acts were signed by Clergy and laity respectively. We may sum up the Anglo-Saxon period as follows: "In the Saxon times if there was any subject of laws for the outward peace and temporal

government of the Church, such laws were properly ordained by the King and his great Council of Clergy and laity intermixed. But if there was any doctrine to be tried, or any exercise of pure discipline to be reformed, then the Clergy of the great Synod departed into a separate Synod, and there acted as the proper judges; only when they had thus provided for the state of religion they brought their canons from the Synod to the great Council to be ratified by the King with the advice of his great men, and so made the constitutions of the Church to be the laws of the realm. And the Norman revolution made no change in this respect. Thus the case stood till the Act of Submission of 25, Henry VIII.*

II.—The period from the Norman Conquest to the Henrician legislation is marked by hostility between the King and the Synods of the Church. Although the Norman Kings did good service to the Church by asserting its independence against Papal encroachments, they asserted the Royal Supremacy in a manner unknown to their Saxon predecessors. This drove the Clergy to side with Rome, and for this reason the true issues of the controversy are obscured in such a way that it is impossible to sympathise fully with Archbishops Anselm and Thomas à Becket, or with the manifestations of Royal power which they opposed.

* Kenneth, "Ecclesiastical Synods," page 249.

"The project of Edward I. (about A.D. 1290) was to have the Clergy as a third estate; the Bishops and a sufficient body of Clergy to sit together and make canons to bind the ecclesiastical body; and his great object was to get the sanction of this assembly to taxes and assessments upon the Clergy. The latter insisted that they could not meet under a temporal authority to make laws for the Church"—(Chief Baron Gilbert, cited in Burns, *Eccl. Law*, II., page 22).

The Clergy successfully resisted the assumption that the King had any authority to convene Synods, and from this date the Convocations, or Provincial Synods, of Canterbury and York met regularly, and retained the right of taxing themselves for State purposes.

III.—We have now to consider the Henrician legislation which turned the Royal Supremacy into an ecclesiastical despotism. In 1531 the King resolved on a rupture with Rome, because the Pope declined to grant him a divorce from Catherine of Arragon. Cardinal Wolsey had fallen from power, after having executed his commission as Papal Legate by the King's sanction. The King invented the legal fiction that his own sanction had contravened the Statute of "Præmunire," and that the Clergy incurred the penalties of outlawry and confiscation for admitting the authority of Wolsey. The

Convocations of Canterbury and York voted the King a sum of £162,840 9s. 6d., which is equal to about two millions of money in modern times, as a fine for their fictitious offence, and the King formulated his demands upon the Church, as follows :—

I.—The Ancient Royal Supremacy of the English Kings was to be re-defined, and the King styled the only Protector and Supreme Head of the Church and Clergy in England.

II.—The Cure of Souls was committed to the King.

III.—The King, as Defender of the Church, was bound to maintain only such liberties of the Church as did not derogate from his regal power and the laws of the Kingdom.

The Convocation under Archbishop Warham were bold enough to resist demands which savoured of the worst days of Byzantine autocracy. They refused the King's new definition of the Royal Supremacy and his sacrilegious claim to the cure of souls. The King offered, as a compromise, the words "post Deum, Supremum Caput," but Archbishop Warham and the Convocation declined it. On February 11th, 1531, the Archbishop put forth the following form as the *ultimatum* of possible concession, which was proposed by himself and approved by Sir Thomas More :—"We acknowledge his Majesty to be the Singular Protector, only and

supreme Lord, *and so far as the law of Christ allows*, Supreme Head of the English Church and Clergy." The King said he would have no "quantums" or "tantums" about the business, but Convocation held firmly to its position, and further altered the King's monstrous claim to the cure of souls to a statement expressing the position of the King as shepherd of his people in civil matters. In 1532 the servile Parliament of Henry VIII. presented their famous "Supplication against the Ordinaries." They stated that the Ecclesiastical Judges were too severe, and demanded that the inherent right of the Church to make her own Canons in her own Synods should be abolished. The Convocation in answer appealed to the theological learning of the King, who must know that they could not submit their Canons for his royal assent. They appealed to the King, as "Defender of the Faith," to confirm his own past policy and the policy of his predecessors in maintaining the liberty of the Church to make her own Canons. The King caused a second answer to be demanded from Convocation, and further expressed his displeasure with Gardiner, Bishop of Winchester, for the part he had taken in framing the first answer. Gardiner wrote to the King and reminded him that the principles of the first answer were to be found in the King's own book against Luther, which had procured him the title of "Fidei Defensor," still used

by English Sovereigns, and in courtly fashion declared his readiness to learn from the King the theological reasons which induced him to attack Church liberties which he had previously defended. The second answer of Convocation contained the following memorable words : "The laws and determinations of Christ's Holy Church, received and used throughout all Christian realms, were clear that the Prelates of the same Church had a spiritual jurisdiction and judicial power to rule and govern in faith and good manners, and that they had authority to make rules and laws tending to that purpose, which laws were of themselves binding on all Christian people, so that there needed no temporal power to concur with the same by the way of authority." The Convocation in these words clearly indicated the true liberties of the Catholic Church of Christ. At the same time the Archbishop and his Clergy showed that they looked to the State for the same protection in temporalities that Aurelian had given in the case of Paulus of Samosata. The Pope had made inroads and exactions upon the temporalities of the Church in England. Archbishop Warham did not forget that "the Britannic Churches constituted a separate Patriarchate, that is to say, the Primate of the English Churches was acknowledged to be a Patriarch, owning indeed the Primacy, but not the *supremacy* of Rome, just as the Constantinopolitan

Patriarch owned the Primacy, but not the supremacy of Rome." *

Convocation petitioned the King and Parliament against the interference of a Papacy that had defied the efforts of the Councils of Constance in 1414 and Basle in 1431 to reform its abuses. We see in its wording a dignified assertion of the independence of the Church of England. "Let the King cause these exactions to cease for ever by Act of his High Court of Parliament. And if the Pope thereon made process against the Realm, or retained the Bishops' Bulls until the Annates were paid, then, since Christian men were bound to obey GOD rather than man, and S. Paul exhorteth to withdraw themselves from such as walked inordinately, let the King ordain that the obedience of himself and his people be withdrawn from the See of Rome." These words came from men who had no sympathy with the Reformation on the Continent. This very Convocation had condemned Latimer for teaching Protestantism, and had caused him publicly to recant. They were in favour of a reform of abuses, but were utterly out of sympathy with the ecclesiastical revolution led by Luther and its development by Calvin.

The final abolition of the usurped supremacy of the Pope in England was the act of the Provincial Synods of the Church of England as well as the act

* Canon Dixon, "History of Church of England," Vol. I., page 148.

of the State. On March 31st, 1532, the following question was put to the Lower House of the Convocation of Canterbury: "*Has the Roman Pontiff any greater jurisdiction in this realm of England, conferred upon him by God in Holy Scripture, than any other foreign Bishop?*"

The form of the question was evidently dictated by the fact that the "Collective Episcopate" in its unity bears rule over the Catholic Church. The English Bishops did not intend to sever the Church of England from the jurisdiction of the "Collective Episcopate" of the Catholic Church. But they declined to admit the "Supremacy" of one foreign Bishop over the "Collective Episcopate." The jurisdiction of the Bishop of Rome in England was only such *concurrent jurisdiction* as belonged to "any other foreign Bishop" of the East or West, as a member of the "Collective Episcopate," and was no more or less than the jurisdiction possessed by the English Bishops in Italy.

The Convocation of Canterbury returned a negative answer to this question, and on May 5th the Convocation of York voted a negative to the same question.

But to return to the King's attack on the liberties of the Church. The customary acknowledgment of the Roman Primacy had been made by the Bishops at their consecration, and their action in the matter of Papal exactions shewed that it sat lightly upon them.

But the King declared that "the Bishops were but *half* his subjects," and threatened them with further pains and penalties if they did not surrender the liberties of the Church. The Archbishop was an old and broken-down man. He had made a gallant and successful fight against the Byzantine definition of the Royal Supremacy. He could not continue the struggle, and on May 16th, 1532, he tendered to Henry the famous document called "The Submission of the Clergy." Its terms were as follows:—

I.—That no new Canons were to be made without the Royal assent.

II.—That the existing Canon law was to be submitted to a Commission of sixteen Clergy and sixteen laity, with a view to the repeal of such parts as were considered prejudicial to the King's prerogatives.

III.—That such laws and constitutions as survived should become valid by the Royal assent.

The Henrician revolution was now complete. The Church, by its own Synodical Acts, was severed from the Roman supremacy with its illegal interferences and exactions. But the ancient Catholic liberties of the Church of England had perished, and the tyranny of the Tudor supremacy wrought evils that will never be undone so long as the present union of Church and State in England continues.

It may be asked how the despotism of Henry VIII

became possible. The answer is plain. The Wars of the Roses had broken the power of the Barons, who had formerly been strong enough to confront King John at Runnymede. The power of the Commons lay in the undeveloped future. The Tudors saw their opportunity and grasped it, and the aftergrowth of freedom was of slow process in the State, and has not yet emancipated the Church of England from the fetters forged by Henry VIII.

II.—It now remains for us briefly to trace the position of Church courts and the distinction between the ecclesiastical and civil jurisdictions. The spiritual court for each Diocese is presided over by the Bishop. "A Bishop is a minister of God unto whom with permanent continuance there is given not only a power of administering the Word and Sacraments, but also a further power to ordain ecclesiastical persons, and a power of chieftly in government over Presbyters as well as laymen—a power to be by way of jurisdiction—a Pastor over the Pastors themselves." * Lord Hale, in his "History of the Common Law," says: "Every Bishop by his election and confirmation has ecclesiastical jurisdiction annexed to his office as '*Judex Ordinarius*' within his Diocese. A Bishop is a constitutional ruler who governs and judges by the advice of his priests. S. Ignatius strongly asserts the authority of the episcopal office,

* Hooker, Bk. vii., chap. 2.

but Bishop Lightfoot, the most weighty of commentators on the Ignatian epistles, writes thus : " And yet with all this extravagant exaltation of the episcopal office the Presbyters are not put out of sight. They form a council, a worthy spiritual coronal, round the Bishop. They stand in the same relation to him as the chords to the lyre." This being the case it naturally follows that the Bishop is assisted in his Court by assessors, and that an appeal lies from his judgment.

The fifth Canon of Nicæa prescribes this appeal, and in commenting on it Canon Bright says : " Observe the frank way in which this great episcopal assembly recognises the liability of Bishops to ignoble faults in the administration of Church law."

But these faults can be guarded against by appeal to a higher spiritual tribunal. The only excuse for the intervention of a secular Court is to lend coercive jurisdiction to a spiritual sentence, or, as in French jurisprudence, to hear the *appellatio tanquam ab abusu*, in case the ecclesiastical authority has encroached upon the civil rights of citizens. Neither case gives any scope for the decision of questions of faith, doctrine, or discipline before a secular tribunal. Jeremy Taylor says that the introduction of lay judges into spiritual arbitrations is " an old heretical trick " (Works, Vol. VII., p. 208). Van Espen, who is one of the most learned of canonists, says: " Without

doubt the examination and decision of matters of faith was confided by GOD to the Church and her ministers, but not to lay authorities" (De Promulg. Leg. Eccl., Vol. IV., p. 164). Hooker says: "Of this most certain we are, that our laws do neither suffer a spiritual Court to entertain those causes which by the law are civil, nor yet, if the matter be indeed spiritual, a mere Civil Court to give judgment of it."*

We will now give a brief analysis of the *constitution* of Church Courts in England, the method of their *procedure*, and the nature of the *law* administered in them.

I.—*The Anglo-Saxon period.*

In this period we find that ecclesiastical cases were usually heard in the "moots," or public assemblies of the Shire and Hundred, before the Bishop, Ealderman, and Sheriff. The Bishop was regarded as "Judex Ordinarius" with regard to all matters of faith, doctrine, and discipline, and as arbitrator in all disputes that did not require a decision of a purely legal character. As to *procedure*, the Bishop could sit in his own Court as well as in the Shire-moot. There were possibly occasional appeals to the Metropolitan or to the Provincial Synod, but there were no formal appeals to Rome. The questions at issue between Wilfrid and Archbishop Theodore and the Civil Power were referred to Rome as matters for negotiation and

* Eccl. Pol. iii., 359 and 360.

advice and not of formal appeal. Many questions would be settled by the Bishop in his Visitations or at home (*in itinere aut in camera*), without being brought before the moot. Sentences were enforced by the Bishop's officers or by the officers of the Shire.

The *law administered* was primarily the Canon law of the undivided Church as contained in the Apostolical Constitutions and the Canons of the undisputed General Councils. It is probable also that portions of the Theodosian code, which related to ecclesiastical matters, were also applied. During the Anglo-Saxon period the balance of evidence brings us to the conclusion that there was no undue subservience of the Church to the Civil Power. The influence exercised by powerful ecclesiastics like Dunstan points almost in an opposite direction.

II.—*The period from the Norman Conquest to the Reformation.*

William the Conqueror came to England with the blessing of the Pope, and his appointment of Norman ecclesiastics to English Sees brought the Church of England in closer relations with the rest of Western Christendom. But he asserted more tenaciously than his Saxon predecessors the Imperial position of the kings of England against Papal encroachments.

The first step taken by William the Conqueror was to abolish the previous custom of hearing

ecclesiastical cases in the moots of the Shire and Hundred.

His edict orders : "That no Bishop or Archdeacon shall henceforth hold pleas touching ecclesiastical laws in the Hundred Courts, *nor draw to the judgment of secular men causes which pertain to the government of souls.*" *The Ecclesiastical Courts* thus reconstituted, took shape in a regular systematic order. Process was made from the Archdeacon's Courts to the Diocesan Court, and from thence to the Provincial Court. An evil practice of delegating the exercise of the jurisdiction of Bishops and Archbishops to judges appointed by them gradually arose in England, which has been the source of much mischief.

The spiritual authority of the Bishop as *Judex Ordinarius* could not rightly be delegated to his Chancellor, and the Provincial Court of the Archbishop, which (by Canon V. of Nicæa) ought to have consisted of the Synod of the Bishops of the Province, was uncanonically reduced to the jurisdiction of the Dean of Arches for the Province of Canterbury and the Official Principal for the Province of York. It is necessary to mention this defect, because the unestablished Churches of the Anglican Communion have restored the primitive Provincial Court of Appeal, which the Mother Church has at present lost. It was this loss which was the most

powerful operative factor in reducing the Church of England to its present condition of subjection to purely secular Courts. The Church of England of her own free will departed from the principles of the Primitive Church, and thereby left herself open to the encroachments of the State.

With regard to the subject-matter of jurisdiction, we may note that the Church Courts dealt with questions of faith, doctrine, and discipline ; questions of marriage and wills, and questions of ecclesiastical property. Their sentences were enforced by the coercive jurisdiction of the Crown. The claim of Archbishop Becket to extend the jurisdiction of the Church Courts over Clergy accused of offences against the law of the land was limited by the third Constitution of Clarendon, but the limitation was modified in 1176, so as to recognise a legal right of "benefit of clergy," which finds expression in certain exemptions from service on juries, and from military service in most civilised governments at the present day. With regard to *procedure* and *Appeals*, the eighth Constitution of Clarendon laid down a regular order of gradation.

"From the Archdeacon process must be had to the Bishop, from the Bishop to the Archbishop ; and if the Archbishop should be slack in doing justice recourse must be had to the King, by whose order the controversy is to be settled in the Archbishop's

Court, in such sort that no further process can be had without the Royal assent," *i.e.*, the parties could not appeal to Rome. When Henry II. was absolved for Becket's murder he renounced this restraint on appeals to Rome, but the issue was practically the same.

The King could restrain appeals to Rome by his common law right to forbid his subjects leaving the realm without his permission, and could prevent Papal briefs being introduced into the country without his leave. During the Marian reaction the Queen used this power to forbid the Cardinal's hat being conveyed to her confessor Peto, when she desired Cardinal Pole to be made Cardinal Legate in his place. The majority of these appeals to Rome were in cases of Probate or in matrimonial causes or cases of Advowsons or disputed Church property. There is no recorded case of an appeal to Rome in a matter of faith, doctrine, or discipline.

The King also maintained a right of *Prohibition* to stay proceedings in an Ecclesiastical Court if it overstepped its powers. The right of Prohibition traversed almost the same ground as the French *appellatio tanquam ab abusu*, only its mode of application was different.

We now come to the question as to the *law administered* in the Ecclesiastical Courts during this period. The question is of importance, since the

daughter Churches of the Church of England derive from her their inheritance of the Canon law of Christendom. The first fact to notice is that the complete code of the Canon law of the mediæval Western Church *was never in force in the Church of England*. In the next place, we note that the law administered in the Anglo-Saxon period was still administered with certain definite additions. These additions were the Constitutions of the Archbishops from Langton onwards, and the Canons of the Legates Otho and Othobon, which were afterwards ratified as a part of English ecclesiastical law by councils held under Archbishop Peckham. The Commentaries of John of Ayton and the Digest of Bishop Lyndwood were the received authorities of the text of these Constitutions, and they also contained large portions of the Roman civil and canon law. The Provincial Constitutions of Canterbury were received by the Convocation of York in 1462.

We now come to the Henrician legislation with regard to Ecclesiastical Courts. We have already alluded to the Preamble of the Statute of Appeals (24, Henry VIII.), which is the basis of all subsequent legislation on the Ecclesiastical Courts of the Church of England. Mr. Gladstone analyses this famous Preamble as follows:—

“Of the division of the nation into Clergy, or the spirituality, and laity, or the temporality.”

"Of the supremacy of the Crown, in all causes whatsoever, over both."

"Of the authority, fitness, and usage of the spirituality to administer the laws spiritual."

"Of its endowments for that very end."

"Of the parallel authority, fitness, and usage of the temporality to administer the laws temporal, which are defined to be for temporal ends."

"Of the alliance between these two jurisdictions."*

The language of this Act, which finally restrained all appeals to Rome, appears to maintain the freedom of the Ecclesiastical Courts, and to reserve the judgment of spiritual causes to spiritual judges, but its real effect has been to annihilate the freedom of the spiritual Courts of the Church of England. The claim of the Crown to supreme authority in dealing with spiritual causes, took effect in 1534 in the "Clergy Submission Act" (25, Henry VIII.). Final appeals from the Archbishop's Court were given to the Crown in Chancery, which established the Court of Delegates, who were appointed by the Crown to hear each appeal as it came forward. This Act contained the provision that in causes "touching the King," the Upper Houses of Convocation of both Provinces should be the final Court of Appeal, but this shadowy recognition of a Final Spiritual Court proved inoperative.

* "Historical Remarks on Royal Supremacy," page 46.

The legislation of Henry VIII. violated the well-known provision of the "Great Charter," "*Ut Ecclesia Anglicana libera sit, et habeat jura sua integra, et libertates suas illæsas.*" The spiritual liberties of the Church of England were destroyed. Its Synods were deprived of their canonical powers, and its Courts lost their legitimate ecclesiastical character.

III.—*The claims of English Sovereigns in ecclesiastical matters, or the growth of the Royal Supremacy.*

We can now summarise briefly the growth of the Royal Supremacy. Archbishop Kenrick, who is an American Roman Catholic prelate, has published a History of the English Reformation, written from an ultramontane standpoint. He takes a very remarkable and original view of the Tudor Supremacy, and traces it to the claims of previous English Kings. He traces the beginning of the Anglican revolt against Rome, to the time of William the Conqueror, and considers that the Church of England was more or less rebellious against Rome throughout the middle ages. Henry VIII., according to this modern Roman Catholic authority, only plucked the fruit which had been ripening under his predecessors for several centuries. Whilst it is impossible to endorse this view entirely, it is valuable as a witness to the historical continuity and independence of the "*Ecclesia Anglicana.*"

We have already noted the fact that the position

of England as an independent Empire prevented the relations between Church and State becoming a servile copy of those obtaining at Rome or Constantinople. Broadly speaking, we may state that the Investiture controversy shewed that the English King, as a feudal lord, demanded the feudal homage of the Bishop for his temporalities. The delivery of staff and ring by the King, which might have symbolised spiritual authority, was conceded, and the Oath of Homage and Fealty was taken "for the spiritualities and temporalities" of the Bishopric. The word "spiritualities" has caused confusion in the minds of some persons, but it may be noted that there are three kinds of "spiritualia":—

- (a.) *Spiritualia Ecclesiæ*, or the inherent spiritual powers of the episcopal office.
- (b.) *Spiritualia regni*, or the Bishop's position as a Lord of Parliament.
- (c.) *Spiritualia beneficii*, or the revenues of his See.

The "spiritualities" of the Oath of Homage refer exclusively to "*spiritualia beneficii*." This point is worth noting, because the Royal Supremacy never deprived the Bishops of their spiritual character, however it may have operated upon the legitimate liberties of the Church.

The general discouragement of appeals to Rome during the period, between the Norman Conquest and

the Reformation, and the legislation against Papal exactions and encroachments manifested by the Statutes of Provisors (1389) and Præmunire (1392), lead us to the conclusion that the Royal Supremacy, although manifested autocratically, tended distinctly to maintain the independence of the Church of England. But under Henry VIII. the Royal Supremacy became an autocratic despotism with Erastian and un-Catholic claims. Although the Clergy yielded *quantum per Christi leges licet*, they were practically under the yoke of a tyranny such as no monarch in Christendom had ever attempted to exercise.

It is true that in his letter to Bishop Tonsal, of Durham, in 1531, Henry VIII. said : "Spiritual things, as Sacraments, have no head but Christ Who instituted them, by Whose ordinance they are ministered by the Clergy, who as regards these things are not subject to the power of men." But the King's words, written in a letter intended to conciliate, must be measured by his claims in the Act empowering Doctors of the Civil Law, though laymen, to exercise jurisdiction.

"The King has not only power to visit and correct, etc., but to exercise *all manner of ecclesiastical jurisdictions*, and that the Archbishops, Bishops, Archdeacons, &c., have no manner of jurisdiction ecclesiastical, but by under, and from the King, and

that to him by Holy Scripture all power and authority is given to hear and determine all causes ecclesiastical" (37, Henry VIII., c. 17). This Erastian claim to abolish the inherent spiritual authority of the Bishop, as "*Judex Ordinarius*," was never made by the most despotic of the Byzantine Emperors, and its pretended foundation on Holy Scripture adds hypocrisy to tyranny. The King's appointment of Cromwell, a layman of unscrupulous character, to act as his Vicar-General and Vicegerent in ecclesiastical matters, was the logical outcome of his policy. The usurped supremacy of the Papacy was exchanged for the usurped supremacy of a lay-Pope appointed by the King (Act of Supremacy, 26, Henry VIII., c. i.).

The claims of Henry VIII. shewed the Royal Supremacy at its zenith. The relations of the Church and the Civil Power in England have gradually altered and changed under succeeding sovereigns, and the Church owes her continued existence to the preservation of the Apostolic Succession and spiritual character of her Bishops, which alone made it possible for her to recover from the Tudor tyranny.

CHAPTER IV.

THE RELATIONS OF CHURCH AND STATE UNDER ELIZABETH, AND THEIR SUBSEQUENT MODIFICATIONS.

WE may consider the reigns of Edward VI. and Mary as an interlude between the Henrician legislation, and the settlement of Church and State under Elizabeth.

Archbishop Cranmer, as Primate of All England, received permission from the young King to exercise his jurisdiction, as Primate of All England, and received a formal commission to exercise the authority which was properly inherent in his office.

The Henrician theory of supremacy was pushed to its extreme extension. The ancient form of electing Bishops was abolished, and the appointment of Bishops by Royal Letters Patent was substituted for it (1, Edward VI., c. 2).

It is true that the ancient *conge d'elire*, with its penalties of *Præmunire* if the Dean and Chapter did not elect the person nominated by the Crown, was restored under Elizabeth, but the power of appointing Bishops by Letters Patent was retained by the Crown

to bear evil fruit more than 300 years afterwards, in the embittered litigation in the Long and Colenso cases, which resulted from the fettering of the Colonial Churches by the appointment of Bishops by Letters Patent from the Crown.

Convocation sanctioned the first Prayer Book of 1549, which was enforced by the first Act of Uniformity (2 & 3, Edward VI.), but the Prayer Book of 1552 was imposed by Parliamentary authority (5 & 6, Edward VI.), and was never apparently sanctioned by Convocation. It is doubtful whether it ever came into public use, save in a few Churches in London and the neighbourhood.

The Marian reaction began by putting matters back to the condition of things in the last year of the reign of Henry VIII. Queen Mary dropped the title of "Supreme Head" in 1554. *It has never since been resumed by any English Sovereign.* In the reunion with Rome, the Royal Supremacy was so far maintained that the Papal prerogatives in England were strictly limited to those customarily exercised in 1529.

Upon the accession of Elizabeth in 1558, an Act was passed "restoring to the Crown the ancient jurisdiction over the State, ecclesiastical and spiritual, and abolishing all foreign power repugnant to the same" (1, Elizabeth, c. i.). This Act repealed the legislation of the Marian reaction, but it is important

to notice that Queen Elizabeth and her Councillors deliberately omitted to revive the Acts which embodied the worst features of the Royal Supremacy as exercised by Henry VIII.

The Acts of Henry VIII., which were not revived by Act I. of Elizabeth, are as follows :—

- (i.) The Acts of Supremacy (26, Henry VIII., c 1), which sanctioned Cromwell's appointment as Vicegerent.
- (ii.) The Commission for the " *Reformatio Legum* " (27, Henry VIII.).
- (iii.) The provisions on the authority of the Pope, on making Bishops by Letters Patent, on the King's style, and the Oath of Supremacy (35, Henry VIII.).

The consequence of these omissions was the abolition of the title " *Supreme Head*," as applied to the Sovereign, and in lieu thereof certain provisions were enacted recognising the Queen as " the only and supreme governour of the realm, as well in all spiritual or ecclesiastical things or causes as temporal," and declaring that no foreign Prince or potentate has any jurisdiction therein.

Elizabeth also reserved power to appoint Commissioners for exercising the Royal authority for visitation, correction, and reformation (see Act I., Elizabeth, sec. 16).

Although the offensive claims of Henry VIII. were thus withdrawn, the Royal Supremacy as here defined was capable of being practically extended far beyond the due adjustment of the true relations between the Church and the Civil Power. As expressed in Article XXVII. it is in accordance with a true and reasonable view of the Royal Supremacy, and in a State Paper of 1570 the Queen laid down the following definition of the relations between the *Regale* and the *Pontificale*.

- (i.) The Queen only claimed the immemorial authority of the English Crown.
- (ii.) She challenged no superiority to define faith or change ceremony.
- (iii.) The *Regale* or Royal Supremacy only extended to persons.
- (iv.) It was her province to provide for the orderly government of the Church.

This is as reasonable as Henry VIII.'s letter to Bishop Tonsal, and the Elizabethan *theory* of Church and State in England was workable enough. It was as follows :—The Convocations met as “the Church of England by representation.” Parliament met as a body of lay Churchmen to represent the realm. The *Clergy* in their Convocations decided questions of religion, and the *Laity* gave their assent in Parliament. The *Regale* lent coercive jurisdiction to the *Pontificale*.

But in practice this theoretic level was not maintained. The Convocations and the Ecclesiastical Courts had lost their freedom.

We may admit the difficulty Queen Elizabeth had to face in dealing with the Convocations of the Marian reaction. This accounts for the Prayer Book of 1559 being sanctioned by Parliament alone. The Queen's ecclesiastical advisers made a wise compromise between the Books of 1549 and 1552, which was the best thing they could do under the circumstances. Her general policy was to maintain the influence of Convocation. When Convocation had passed the XXXIX. Articles of Religion in 1571, the Queen would not allow Parliament to debate them, but promulgated them on the authority of the Royal Supremacy. In 1572 the Puritanic party in Parliament desired to meddle in Church matters. The Queen sent a message to the Speaker, "that her Highness's pleasure is that from henceforth no Bills concerning religion shall be preferred or received into this House, *unless the same shall be first considered and liked by the Clergy.*"

With regard to Ecclesiastical Courts, it is important to know the law administered, because the free Churches of the Anglican Communion derive their general Canon Law from the Mother Church. In the first place, every Churchman in the Anglican Communion must rejoice that the *Reformatio Legum*

never became the law of the Church of England. It was the fruit of the Commission appointed by Henry VIII. after the "Submission of the Clergy," to revise and codify the whole ecclesiastical law of the Church. It contains much valuable matter, but if it had superseded all the other laws of the Church of England the Anglican Communion at the present day would have been severed from the Canon Law of Catholic Christendom.

The three sources of ecclesiastical law from the reign of Elizabeth to the present time are

- (i.) The Canon law of Christendom, with the limitations mentioned in dealing with the anti-Reformation period.
- (ii.) "The King's Ecclesiastical Laws," or the statute laws of the realm which deal with Church matters.
- (iii.) The Canons passed by Convocation under the limitations previously recorded. The Canons of 1597 and 1604, although assented to by the Crown, do not bind the laity *proprio vigore*, because Parliament did not assent to them. The Canons of 1640 are not considered binding.

With regard to the Ecclesiastical Courts of the Elizabethan settlement, we note first that the Provincial and Diocesan Courts remained in their previous form. The *Court of Delegates*, whereby judges were

appointed by the Crown, *pro hac vice*, to hear each appeal case (under 24, Henry VIII.), still remained, but its functions were almost dormant under the permanent delegation which exercised the ecclesiastical jurisdiction of the Crown, which was termed the *Court of High Commission* (1, Eliz., c. i.). The first Court of High Commission consisted of Archbishop Parker, Bishop Grindal, and seventeen other persons, mainly lawyers. It dealt with appeals as well as cases of first instance. Its powers were most searching and arbitrary.

It became odious to the nation under the name of the Star Chamber, and was abolished finally by the Long Parliament by Act 16, Charles I., c. 11.

The shadowy jurisdiction of Convocation allowed by the Statute of Appeals was allowed to continue, and also its right to condemn and censure heretical books and tenets. Very little modification of the Elizabethan settlement took place until the Act of Union with Scotland in May, 1707. The relations of Convocation and Parliament were hostile during the reigns of James I. and Charles I., and the Puritan revolution for a time almost overwhelmed the Church. But the succession of Bishops was carefully preserved, and after the Restoration Convocation and Parliament worked with the utmost harmony in effecting the final settlement of the Prayer Book in 1662. The Prayer Book, as it finally emerged from the hands of

Convocation, passed both Houses of Parliament without debate. The House of Lords was so careful to avoid the least semblance of interference with the Convocation, that they declined to amend an obvious misprint in the Prayer Book, without asking the permission of Convocation (Journals of House of Lords, 8th of May, 1662). In 1665 the Convocations surrendered their ancient power of taxing the Clergy and voting subsidies. This surrender was a source of distinct weakness. The Revolution of 1688 weakened the Church by the secession of the non-jurors. We may admire their conscientiousness, although we deplore the erroneous doctrines of passive obedience and the divine right of Kings, which led the best of the disciples of the Caroline divines to leave the Church when she most needed their services. They could not recognise the fact that the *form* of civil government depends upon the will of the people, and that the relations of the Church to the "powers that be" are the same whether the Government is monarchical, parliamentary, or republican. The Act of Union with Scotland destroyed the position of Parliament as an assembly of lay members of the Church of England. The Presbyterian element introduced by the presence of the Scottish members paved the way for the ultimate admission of Nonconformists, Roman Catholics, Jews, and Freethinkers. In its legitimate development, as the representative assembly of all

creeds and classes in the State, the Parliament of England became purely *secular*, and thereby *inherently* disqualified from occupying its narrow mediæval position as an assembly of lay Churchmen. The Royal Supremacy is practically no longer in the hands of the sovereign as it was in Elizabeth's reign. The sovereign of England under modern political developments reigns but does not govern, and the true inheritor of the Elizabethan Royal Supremacy is the Imperial Parliament, which is as purely secular an assembly as the American Congress.

In 1717 the ministry of the day forcibly silenced Convocation, on account of its censuring the latitudinarian views of Bishop Hoadley, and the partial revival of Convocation during the last forty years has not yet restored its ancient privileges and liberties. In 1832 Parliament abolished the Court of Delegates, which might be constituted so as to possess a quasi-ecclesiastical character, and substituted the Judicial Committee of the Privy Council as the final Court of Appeal in ecclesiastical causes. This tribunal is a purely secular Court, and its judgments cannot possess any spiritual validity, or in any way bind the consciences of Churchmen. The Church could not protest against this measure formally, because her Convocations were silenced, but she did what she could in the persons of her Bishops. The protest of the Bishops was embodied in a Bill brought

before the House of Lords to create a spiritual Tribunal of Appeal in 1850. The measure failed, but the debate was valuable in procuring the admission from Lord Brougham that the Judicial Committee of the Act of 1832 had been created without the expectation of ecclesiastical questions being brought before it.

In 1874 Parliament forced another secular Court upon the Church by the Public Worship Regulation Act, which destroyed whatever spiritual jurisdiction had survived in the ancient Court of Arches.

The dissatisfaction caused to Churchmen in England by this Erastian legislation caused the appointment of a Royal Commission on Church Courts which issued its Report in 1883. That Report advised the repeal of the Public Worship Regulation Act of 1874, and the substitution of another Tribunal of Appeal for the Privy Council. The exhaustive historical researches of Dr. Stubbs, now Bishop of Oxford, conclusively proved to the Commissioners that the ecclesiastical appellate jurisdiction of the Privy Council was a usurpation which formed no part of the Reformation settlement of the Church of England.

No action has yet been taken to form a Tribunal of Appeal which will restore the lost spiritual liberties of the English Ecclesiastical Courts.

It is possible for such a Court to be established

without severing the relations between Church and State in England. The established Presbyterian Church in Scotland has preserved the absolute spiritual independence of its Ecclesiastical Courts. In the case *Wight v. Presbytery of Dunkeld*, when an attempt was made to question the action of the Presbytery in a Civil Court, the Judge Lord Moncrieff, said, "Within their spiritual province, the Church Courts are as supreme as we are within the Civil, and as this is a matter relating to the discipline of the Church, and solely within the cognisance of the Church Courts, I think we have no power whatever to interfere."

It is quite possible that a readjustment of the relations of Church and State in England could be devised which would give the Church of England the same spiritual liberties which are freely conceded to the Scottish Presbyterian Establishment. But an ultimate severance of the present relations of Church and State is the more probable solution of the difficulties that have arisen.

The laity in England have for many centuries lost their canonical position and legitimate influence in Church matters. This loss has caused many of them to tolerate the Erastian encroachments of a Parliament that has become secular as a sorry substitute for their own legitimate rights. The restoration of the rights of the laity in the election of Bishops, the

appointment of Clergy, and in the Synods of the Church, which is universal in the free daughter Churches of the Anglican Communion, seems impossible in the Mother Church without a final separation between Church and State.

This, too, seems the only solution of the question of a spiritual Tribunal of Appeal, and a canonically defined Patriarchate of Canterbury in the place of the present vague historical Primacy. The daughter Churches will accept no final Tribunal of Appeal which is not spiritual and free from State interference. The Lambeth Conference of 1867 carefully elaborated a Constitution for such a Tribunal, but the existing difficulties, arising from the control of the Church of England by Parliament, have hitherto prevented this Tribunal from being established.

The growing spiritual influence and progress of the Free Churches of the Anglican Communion causes them to value their freedom more and more, and tends to blend with their deep loyalty to the Mother Church an increasing desire that she should be freed from the perplexities and disabilities of her connection with the State. It is worth while to quote on this point the words of one of the most eminent of the American Bishops.

“For centuries the English Church has occupied a false position, and has been held responsible for the very oppression of which she herself has been the

worst victim. It is difficult for an American Churchman to repress a feeling of sorrowful indignation when he remembers how our Mother Church has been used in many a despotic cabal under Tudor and Stuart and Hanoverian, by Whig and Tory administrations, by secularist and infidel ministries, to serve ends utterly alien to her true polity, and to further purposes which, if her true voice could have been heard, she would have renounced as utterly unworthy. It is a truth which cannot, I believe, be too much insisted on, that almost all the evils which have afflicted and still afflict English Christianity have been caused or provoked by the burden of the Royal Supremacy which the English Church has had thrust upon her. In consenting to do duty as a Church established by law, she has apparently identified herself and her fortunes with a merely human power.

“ So calamitous was this ill-omened alliance, that the revolution which first hurled the Stuart dynasty from the Throne dragged the Church down with it ; and it was not till the Stuarts were finally banished from the kingdom that the Church was delivered from the task, long so servilely performed, of defending the Divine Right of Kings. With the accession of William and Mary the Church was free and prompt to assume a truer relation to the State, and it will remain an imperishable honour to the English Church that some of her Bishops were among the first to

enunciate formally the great truth that the authority of civil government is derived solely from the consent of the governed, and so to lay down the true basis of civil society " (Bohlen Lectures, 1882. " The Relation of Christianity to Civil Society," by the Right Rev. S. S. Harris, D.D., LL.D., Bishop of Michigan, pp. 82, 83, and 84).*

* The Bohlen Lectures in the American Church are founded on the same principles as the Bampton Lectures, and their trust deed refers to the terms set forth in the will of the Rev. John Bampton.

CHAPTER V.

THE HISTORICAL DEVELOPMENT OF THE FREE CHURCHES OF THE ANGLICAN COMMUNION.

WE have now traced the relations of Church and State from the earliest period of Church history. We have seen how the policy of Constantine developed into the Byzantine "King-priest" of the East, and how the rivalry between the Papacy and the Holy Roman Empire produced the Hildebrandine "Priest-king" of the West. We have traced the chequered story of the relations of Church and State in England up to the modern period in which the Royal Supremacy has practically passed into the hands of a secular Parliament. It remains for us to trace the true life of the Mother Church in the vigorous development of her daughter Churches, and to shew from their history and organisation how they have fulfilled, in their freedom from State control, the Anglican ideal of an historical Christianity, based upon the Catholic doctrine and Apostolic order of the undivided Church of Christ.

It will be necessary first to summarise briefly the present statistical position of those Churches of the Anglican Communion which lie outside the two Established Provinces of Canterbury and York.

	<i>Dioceses.</i>	<i>Bishops.</i>	<i>Clergy.</i>
I.— <i>The American Church.</i> The Bishop of Connecticut is Presiding Bishop by seniority.	66	Diocesan, 66 Assistants, 6	4,250
II.— <i>The Irish Church.</i> The Archbishop of Armagh, Primate of All Ireland.	Province of Armagh 14	Bishops Elect, 5 1 Archbishop and 6 Bishops of united Dioceses	1,737
The Archbishop of Dublin, Primate of Ireland.	Province of Dublin 20	1 Archbishop and 5 Bishops of united Dioceses	
III.— <i>The Scottish Church.</i> The Bishop of Brechin, Primus, by election.	13	7 Bishops of united Dioceses	280
IV.— <i>The Canadian Church.</i> The Archbishop of Ontario, Metropolitan of Canada, by election.	10	10	1,108
The Archbishop of Rupertsland, Metropolitan of Rupertsland, and Primate of All Canada.	6	6	
V.— <i>The Australian Church.</i> The Bishop of Sydney, Primate of Australia.	14	14	809
VI.— <i>The South African Church.</i> The Bishop of Capetown, Metropolitan of South Africa.	10	Diocesan Bishops, 10 Coadjutor to Metropolitan sanctioned by Synod	301
VII.— <i>The Indian Church.</i> The Bishop of Calcutta, Metropolitan.	9	9	763
VIII.— <i>The Church of New Zealand.</i> The Bishop of Wellington, Primate, by election. (Resigned 1893.)	8	7 See of Melanesia vacant	266
IX.— <i>The West Indian Church.</i> The Bishop of Jamaica, Primate, by election.	8	Diocesan Bishops, 6 Coadjutor Bishops, 2 See of Honduras vacant	277
X.—Missionary Dioceses under the authority of no Province, which hold direct Mission from the Primatial See of Canter- bury.	20	20 and 4 Assistant Bishops	157
Totals	198	185	9,948

In reviewing these statistics we may note first of all that there are certain State restrictions (owing to the position of many of the Clergy as Government Chaplains) which prevent the full Synodical organisation of the Indian Church, although the Synod of Bishops meets under the presidency of the Metropolitan.

The second point is that the Dioceses of Newfoundland, British Columbia, New Westminster, and Caledonia, whose Bishops now hold Mission directly from the Primatial See of Canterbury, are likely to be united to the Canadian Church.

We may now proceed to summarise briefly the historical development of the Free Churches.

I.—The American Church.

In the early days of English colonising enterprise in America the Church was represented by isolated Clergy under the nominal superintendence of the Bishop of London, which took legal form in the shape of a Royal Commission to Bishop Gibson in 1723. The after history of the American Church has been much influenced by the fact that each Colony ultimately became an independent sovereign State, united under the Federal Government of the United States for certain definite national purposes. The Church was originally established by law in Maryland and Virginia, whilst the Churchmen of the North were independent of State support, and were face to face

with the dominant Puritanism of New England. In 1702 the well-known Dr. Bray, who was Commissary of the Bishop of London in Maryland, made a determined effort to procure the Episcopate for America. Other efforts were made, but the Erastian tendencies of Sir Robert Walpole's Government, coupled with the general ecclesiastical deadness of the Hanoverian period, and the bitter opposition of the New England Puritans, caused these efforts to result in failure.

The Society for the Propagation of the Gospel, which was founded in 1701, was mainly instrumental in keeping alive the faith and worship of the Church of England in America. When the revolutionary war broke out in 1775 the Society had seventy-seven Clergy at work in that country. A considerable number of the Clergy were opposed to the Revolution, and persisted in praying for the King in accordance with the Book of Common Prayer. They suffered violence for their political opinions, and the Church was almost ruined in consequence. Washington, however, was a Churchman, and William White, who afterwards became the first Bishop of Pennsylvania, was Chaplain to the Congress during the whole period of the Revolution. During the closing days of the War of Independence the condition of the Anglican Church was miserable in the extreme. We cannot do better than quote Bishop White's own words:—

“The congregations of our Communion throughout

the United States were approaching to annihilation. Although within this city (Philadelphia) three Episcopal Clergymen, including the author, were resident and officiating, the Church over the rest of the State had become deprived of their Clergy during the War, either by death or departure for England. In the Eastern States, with two or three exceptions, there was a cessation of the exercises of the pulpit, owing to the necessary disuse of the prayers for the former civil rulers. In Maryland and Virginia, where the Church enjoyed civil establishments, on the ceasing of these, the Incumbents of the Parishes, almost without exception, ceased to officiate. Further south, the condition of the Church was not better, to say the least" (MS. Notes of *William White*, published by T. H. Montgomery, of Philadelphia).

The feeling between the United States and England was so bitter that a cessation of war from exhaustion did not give hopes of peace between the two countries on the basis of an acknowledgment of American independence. The possibility of obtaining the Episcopal succession from England appeared hopeless and impossible. At this moment of despair, when the very name of Episcopacy had become hateful in America on account of the position of the Bishops of England as officials of a State Church, William White put forth his famous pamphlet, "The Case of the Episcopal Churches Considered." He

stated that the Episcopal Church had a right to maintain its separate existence. He appealed to the fact that the majority of the citizens of the South, who had fought for the independence of the United States were Anglicans, and he proved that there was nothing in the religious convictions of Anglicans hostile to the principles of civil and religious liberty. He anticipated the conclusions of the Bishop of Michigan written about 100 years afterwards.*

* After tracing the influence of the Puritanism of New England, and the Quakerism of Pennsylvania, on the relations between Christianity and Civil Society, Bishop Harris proceeds as follows :—

“Lastly, we must consider briefly the effect of Anglicanism, meaning by this term the attachment of colonial Churchmen to the English Establishment. Undoubtedly the first attitude of Anglicanism in Virginia and the Carolinas, and later in Maryland and New York, was hostile to religious liberty. No word of excuse shall ever be offered by me for the proscription for opinion’s sake which was enacted in those colonies. And yet it cannot be denied, that such proscription was rather political than religious, and always lacked the bitterness of religious fanaticism. The consequence was, that, as fast as the Anglican colonists outgrew their original subserviency to political prerogative, their proscriptive enactments fell into complete desuetude. Hence it was that Anglicanism did not retard the development of religious liberty to the same extent, and in the same way, as was done by the stern Puritanism of Massachusetts Bay. Allusion has already been made to the fact, that it was in Virginia that the Declaration of Rights, which was the first authoritative proclamation of civil and religious liberty in any land, was enacted ; that it was written by George Mason, a devout communicant of the Church ; and that it was unanimously adopted by the Virginia House of Burgesses, the large majority of whom were also Churchmen. That Churchmen should thus take the lead was no accident. It was easier for a Churchman to sever the alliance between religion and civil society, because to him Christianity stood on ground altogether different from that occupied by the State. He believed that the Church was a theocracy, instituted and upheld by a living King ; and that Christianity, being the Church’s concern, did not need to either lean upon or control the State. Having come to understand that the State is purely secular, while the Church is altogether spiritual ; that

He recognised the fact that the Bishop of London could no longer claim the spiritual oversight of American Churchmen, who would be organised "only by voluntary associations for union and good government." In despair of obtaining a valid Episcopate he suggested the organisation of the Church as a temporary measure, without it, as a remedy against chaos. We dare hardly blame him overmuch, especially as he withdrew promptly this portion of his pamphlet directly peace was concluded with England, and since it is owing to his efforts that America obtained the consecration of Bishops in the English line of succession.

the State is altogether human, and the Church altogether divine; he had no fears that either the one or the other would suffer by the separation. Therefore, it was perfectly natural that George Mason, the Churchman, should have written the Declaration which was the true charter of our national freedom; and there was a natural fitness in the fact, that the Continental Congress, which began the work of achieving our freedom, was opened with prayer by a clergyman of the Church, and that the patriot army which won our freedom was commanded by a son of the Church. In strict consistency with the same line of events, the Church, being rescued here for the first time in long centuries from the burden and the tyranny of State control, began a gracious career in this country after the war, and gave singular evidence by the promptness and completeness with which she adapted her organisation to the framework of the State, by the readiness with which she took up her great work, by her cordial sympathy with our free institutions, and by a consistent policy of non-interference with all questions merely civic and political, that this free land is the Church's home; that she has found here the liberty for which her children long had sighed in every clime; and that she is able, by reason of her divinely constituted polity and her unchanging order, to serve the commonwealth without being enslaved by it, and to help it without intruding on its councils or interfering with its power" ("Bohlen Lectures," No. iii., pp. 103, 104, and 105).

He recognised the fact that Bishops should be elected by the Clergy and laity, and also that the laity had their due place in the Synods of the Church.

It is remarkable to notice that the Clergy and laity of Virginia, Maryland, and the Carolinas, where the Church had been established by State authority, had no firm grasp of Church principles. It was far different with the Churchmen of the North, who had no State support, and had to work out Church principles in the face of a hostile Puritan majority. In 1783 ten of the Connecticut Clergy met at Woodbury, and elected the Rev. Samuel Seabury, D.D.Oxon., as their Bishop. The New York Clergy approved, and after tedious and fruitless negotiations with the English Bishops, who thought themselves bound by Act of Parliament not to consecrate a Bishop for America, the oppressed and persecuted Scottish Church solved the difficulty, and gave to America the priceless boon of the Historic Episcopate, by consecrating Dr. Seabury as the first Bishop of Connecticut, on the 14th of November, 1784. The sturdy Churchmanship of the North had gained its point, and the Archbishop of Canterbury began to take heart of grace, and procure the passing of an Act of Parliament which would permit him to consecrate Bishops for America. Meanwhile, matters had been much complicated by the influence upon Church matters of the doctrine of State rights. There was nothing

to bind the Church in the sovereign State of Maryland to the Church in the sovereign State of New York, and the danger arose of a multiplication of Churches with varying laws in each State of the Union. The tact of Dr. White averted this disunion, and the preliminary General Convention of 1785 applied to England for the consecration of Bishops. Certain alterations in the Prayer Book had been proposed by the lax Churchmen of the South, and the Archbishop of Canterbury (Dr. Moore) very wisely interposed with a warning that he would decline to consecrate, unless he were satisfied that the American Revised Prayer Book would not materially differ from that of the Church of England. This warning was duly regarded, and on Feb. 4th, 1787, William White was consecrated Bishop of Pennsylvania, and Samuel Provoost, Bishop of New York, in Lambeth Chapel, by the Archbishop of Canterbury (Moore), the Archbishop of York (Markham), and the Bishops of Peterborough and Bath and Wells. It is significant that both English Primates united in this memorable consecration. The American Church had now three Bishops. The New England Churchmen found that Bishop Seabury's Scottish consecration was a distinct advantage in allaying the jealousy of everything connected with the English Church, as an establishment, and they kept aloof from the Churchmen of the Southern

and Middle States. Bishop Seabury was too firm a Churchman to consent to the proposed alterations in the Prayer Book, even when the English Bishops had been satisfied, and there might easily have been two rival Churches of the Scottish and English succession had it not been for the self-sacrificing efforts of Bishops Seabury and White to obtain unity. A compromise was arrived at with regard to the Prayer Book. Bishop Seabury conceded the minor alterations (most of them now happily brought back to the primitive standard by the Revised American Prayer Book of 1892), and carried his point with regard to the Office for Holy Communion, in which he embodied the chief liturgical gains of the Scottish Communion Office. The General Convention of 1789 established the *General Constitution of the American Church*, and Bishop Seabury took his seat, by virtue of seniority of Consecration, as the first "Presiding Bishop" of the American Church.

We append a brief outline of the Constitution of the American Church under the following heads:—

(a) The Synodical system. (b) The method of electing Bishops. (c) The Capitular system. (d) The Ecclesiastical Courts and the discipline of the laity.

On the first three points we shall quote from a summary, published some years ago, from the pen of the Bishop of New York.

(a) *The Synodical system.*

“Our *General Convention* consists of two Houses : the House of Bishops, and the House of Clerical and Lay Deputies. The Lower House consists of four Clerical and four Lay Deputies from each Diocese, whether large or small, and these deputies (clerical and lay) are chosen by the Diocesan Conventions, and their election requires a concurrence of Clergy and laity.”

We may add to this that by Article I. of the Constitution, that the lay Deputies must be Communicants and that “the concurrence of both Orders shall be necessary to constitute a vote of the House of Deputies.”

This principle of voting by Orders, whereby the Clergy and laity record their votes in separate bodies, is of the greatest importance as a maintenance of primitive Church principles. Another point of the first importance is that the House of Bishops have, by Article II. of the Constitution, *an absolute veto* upon the proceedings of the House of Deputies. This preserves the inherent right of the Bishops of the Church to be the *ultimate judges* in all matters of faith, doctrine, and discipline. Any changes which the House of Deputies may have enacted can only become binding laws by the assent of the House of Bishops.

“Our *Diocesan Synods or Conventions* consist of

the Clergy having duly recognised duty, and of a representative of the laity. There may be three from each parish. The two Orders, on common occasions, vote together ; but if a vote by Orders is called for, each parish has but one lay vote. The lay members of the parish, if there be two or three, must agree or lose their vote. If there be three, two would decide their vote. These lay Deputies may be chosen in the parish by the vestry or by the congregation—almost always by the former.”

(b) *The method of electing Bishops.*

“In the election of a Bishop, the two Orders (of the Diocesan Convention) vote separately, and must, of course, concur. In some Dioceses the Clergy vote first, retiring for the purpose, and they must by a majority nominate a Presbyterian before the laity vote at all ; and then they confirm or not the nomination.”

After comparing the methods of election in various Dioceses, Hoffman, who is the chief authority on American Canon law, concludes, “that great uniformity prevails, not only in requiring the assent of the laity to a choice, but also in conducting the election by a vote of Orders ; and generally in making the lay vote a vote of Churches or congregations” (*The Law of the Church*, p. 157).

The *Confirmation* of the Bishop-elect is in the hands of the House of Bishops, who act upon a testimonial of the House of Deputies in the General Convention,

or, if the Convention is not sitting, upon the consent of the majority of the Standing Committees of the various Dioceses.

(c) The Capitular system.

“ In each Diocese there is a Standing Committee—four Clergy and four laymen—elected annually. It is a Council of Advice to the Bishop. All candidates for Orders must present papers to the Standing Committee, and are recommended by that Committee to the Bishop, first, in order to be admitted to candidature, and, secondly, at the end of three years, to be ordained. In case of death or disability of the Bishop, the Standing Committee of each Diocese is the *Ecclesiastical Authority*, for the time, for all purposes except strictly Episcopal acts.”

The powers of the Standing Committee, as defined by Canon II. (Title iii.) of the American Church, fulfil much more closely the primitive ideal of the Bishops' Senate than Cathedral Chapters do at present in England.

The Standing Committee is bound to give the Bishop its advice when he asks for it, and may also tender advice to the Bishop when they think fit.

(d) The Ecclesiastical Courts and the discipline of the laity.

The trial of Bishops is conducted under the provisions of Canon IX. (Title ii.) of the American Church.

There is a Board of Inquiry, instituted under the Presiding Bishop, consisting of Clergy and laity, which investigates the charges made against the Bishop in the Articles of Presentment. A lay Communicant of the Church, of the profession of the law, is appointed Church-Advocate, and he represents the legal part of the case of the presenters against the accused. If this Board of Inquiry find that there is no *primâ facie* ground for further proceedings, they report to the House of Bishops their refusal to present. But if they present the accused for trial he is tried according to ancient precedent by a Court of seven Bishops, selected from the House of Bishops, who elect their own president from their number. The influence of State rights, which has previously been alluded to, has prevented the American Church from adopting the provincial system, but the Canon on the trial of Bishops keeps as closely to ancient precedent as is possible under the circumstances.

The trial of Clergy is a Diocesan matter, and the Constitution of the Diocesan Court varies in detail. Owing to the causes before mentioned, there is at present no appeal from the sentence of a Diocesan Court, which is final. This is not in accordance with primitive precedent, and will doubtless be remedied in the future.

In most of the American Dioceses the procedure is as follows :—

“A presentment being made, the Bishop, if the facts charged shall not appear to him to be such as to constitute an offence, may dismiss it, or he may allow it in part. When it shall be allowed in whole or in part, the Bishop shall cause a copy of it to be served on the accused and shall also nominate twelve Presbyters entitled to seats in the Convention, and not being parties to the presentment, and cause a list of their names to be served on the accused, who shall within thirty days after such service select five of them and notify their names to the Bishop, and if he shall not give such notification to the Bishop within said thirty days, the Bishop shall select five, and the Presbyters so selected shall form a Board for the trial of the accused, and shall meet at such time and place as the Bishop shall direct” (Hoffman’s *Law of the Church*, p. 405).

The Bishop sits as *Judex Ordinarius* in his Diocesan Court and passes sentence. He does not always preside at the trial itself, which is of the nature of a Commission of Inquiry to elicit facts. The general rule with regard to the employment of lawyers is that no lawyer can be employed on either side, unless he is a Communicant of the Church.

With regard to *discipline over the laity*, the American Church has made provision in Canon XII. (Title ii.) for a Court of Inquiry into the cases of persons repelled from the Holy Communion under the

authority of the Rubrics preceding the Communion Office.

If the repelled person complains to the Bishop in writing within three months of his repulsion, an inquiry shall be instituted according to the Canons of each Diocese, and when no such Canons exist "the Bishop shall proceed according to such principles of law and equity as will ensure an impartial decision."

By Canon XIII. (Title ii.) the Sacraments are to be withheld from persons married "otherwise than as God's Word doth allow," and no minister shall solemnise the marriage of divorced persons save "the innocent party in a divorce for the cause of adultery," or divorced persons who may desire to be united again.

We have now briefly summarised the main points of the Constitution and Canons of the American Church.

II.—*The Church of Ireland.*

It is impossible to understand the present position of the Church of Ireland without a rapid glance at its past history. The type of Christianity introduced by S. Patrick (A.D. 397) and his followers was of Eastern origin, and the Church organisation of Ireland differed materially from that of the rest of Christendom. The Irish Celtic Church followed the pattern of the civil government of the country, which was tribal and not territorial. The land belonged to the whole tribe

under their chieftain, who inherited his position by a strict law of hereditary succession. The early Irish Church was monastic, and the Abbot was the spiritual head of the tribe just as the chief was the civil head. Sometimes the chief and Abbot were the same person. Diocesan Episcopacy was unknown. Bishops were attached to all the great monasteries for the purpose of conferring Orders and administering Confirmation. These Celtic Bishops had no jurisdiction, and were under the Abbot's orders. The Abbots held their office, like the chieftains, by a succession, a succession of members of the same family. A similar custom prevails amongst the Nestorians.

Notwithstanding its differences of organisation, the Irish Celtic Church was a mighty spiritual power. Sixty-eight years after S. Augustine landed in Kent, only Kent and East Anglia were in communion with the See of Canterbury. The rest of England was practically heathen. In A.D. 634 S. Aidan was sent from the Irish Celtic Church to Oswy, King of Northumberland. The mission of S. Aidan and his followers converted the rest of the country, and S. Aidan deserves to be known as "the Apostle of England." In 1074 Archbishop Lanfranc consecrated Patrick to the See of Dublin, which was at that time the capital of a Danish settlement. This early link between the Irish Church and the See of

Canterbury was soon severed, and the precedence of Armagh over Dublin robbed it of any great significance.

Diocesan Episcopacy was established in Ireland by the important Synod of Rathbreasil in 1118, but the progress of the ideas of Western Christendom in Ireland was necessarily very slow. The tribal system remained, and the old Celtic traditions possessed the minds of the people. The Bull of the English Pope Adrian, in 1155, which purported to give Ireland to Henry II., gave the final blow to the independence of the Celtic Church. The Anglo-Norman invasion of Ireland arrayed Irish patriotism against the system of Western Christendom, and the influence of the Papacy was forced on Ireland by England. The Synod of Cashel, in 1172, was a high-handed effort to bring the Church of Ireland into subjection to the Church of England. English authority was confined to the narrow limits of the Pale, and the Irish Parliament was a subservient body of Anglo-Norman settlers. The Reformation period found Ireland out of touch with the thoughts and aspirations of the rest of Europe. No echoes of the ecclesiastical revolution on the Continent had reached the "Isle of the Saints." The servile Parliament of the English Pale submissively passed the statutes of the Henrician Reformation, and the mass of the people knew little and cared less for Henry VIII. and his policy. A few Irish

chieftains were glad enough to share in monastic spoils, and under Edward VI. an attempt was made to force the English Prayer Book on Ireland. The Irish did not understand English any better than they did Latin, but for the first time in Irish history the Papacy sided with the native Irish in opposition to English policy. The Irish took up the Papal cause from a spirit of opposition to England, and the Marian reaction made no difference in the situation. Mary's Government drove the native Irish out of King's County and Queen's County with a barbarity only paralleled by Cromwell's sack of Drogheda. Mary appointed Hugh Curwen to the See of Dublin, and he was consecrated in S. Paul's Cathedral by Bonner and other Bishops, on Sept. 8th, 1555. This consecration is important, because all the Bishops of the Church of Ireland derive their succession from Archbishop Curwen. The absence of Diocesan Episcopacy in the early Celtic Church renders the succession of the Irish Bishops from S. Patrick a matter of dubious history. Roman Catholic controversialists have cavilled at Archbishop Parker's consecration. But they have never attacked the validity of the consecrations performed by Archbishop Curwen in Elizabeth's reign, and the Irish line of succession is linked with the English line, through John Howson, Bishop of Oxford (one of whose consecrators was an Irish Bishop), who was one of the consecrators of Laud, on Nov. 18th, 1621.

The troubles of the seventeenth century left the Church of Ireland face to face with a hostile majority of Irish Roman Catholics whose patriotism has been linked with their religion. Penal laws of a savage character were enacted against the Irish Romanists, and the Church of Ireland was degraded by becoming the badge of conquest, and the political instrument of the English Crown in administering a resolute government, whose aim was to crush the national spirit of the native Irish. But although the Church of Ireland became the tool of the State, and the Church of "the English garrison," it maintained a certain independence of the Church of England. The Irish Convocation in 1613 drew up a series of Articles of Religion, 104 in number, which were in general agreement with the ultra-Calvinistic Lambeth Articles of Archbishop Whitgift. In 1635 Strafford, whose Irish rule was autocratic enough, summoned the Irish Convocation, and coerced them into passing the English XXXIX. Articles as their standard of religion. But when he tried to force on them the English Canons of 1604, Archbishop Ussher resisted, and said that it would be a betrayal of the privileges of the National Church of Ireland. The result was that the Irish Canons of 1635, which differ from the English Canons of 1604, were drawn up and passed. We may note here that the Irish Convocation never sanctioned the parliamentary union of the Churches,

which formed a clause in the Act of Union in 1800. When the State had devised the portentous phrase "the United Church of England and Ireland," a shadow of independence was still left to the Irish Church in the fact that the State did not force upon her the Judicial Committee of the Privy Council as her final Court of Appeal. The Irish Court of Delegates, appointed under 25, Henry VIII., still remained in existence until Disestablishment took place in 1870. Since that date the ancient Church of Ireland has manifested a renewed and vigorous life. She has refounded and re-endowed the ancient Bishopric of Clogher, which had been suppressed by the State. She has ceased to be the handmaid of the English Government in Ireland, and she has for the past twenty-three years pursued her great spiritual mission with the zeal and energy of a wisely ordered freedom. It was natural that the laity of Ireland, who were untrained in Synodical government, should see Romanism in many ceremonies and usages that are the common heritage of Catholic Christendom. It was natural to expect some hasty legislation. But the alterations in the Prayer Book and the Canons on Ritual have done nothing to sever the Church of Ireland from Catholic belief and Apostolic order. A national Church has the right of ordering its rites and ceremonies, and the Church of Ireland of the future can widen the bounds which at present may seem to some of her foremost

sons to tend in the direction of unwise restriction. The Constitution and Canon law of the Church of Ireland has been most wisely and carefully drawn up. The Catholic freedom of the system of the American and Colonial Churches has been carefully adapted to the ancient historical precedents of the Church of S. Patrick.

The following is a brief analysis of the Constitution and Canon law of the Church of Ireland.

The *Preamble and Declaration* prefixed to the Constitution begins by witnessing to the historical continuity of the Church. "We, the Archbishops and Bishops, of this, *the Ancient Catholic and Apostolic Church of Ireland*, together with the Representatives of the Clergy and laity of the same, do solemnly declare as follows : (We subjoin the cardinal points of the Declaration)—

I.—The Church of Ireland

- (i.) "doth accept and unfeignedly believe" all the Canonical Scriptures of the Old and New Testament, "and doth continue to profess the faith of Christ as professed by the Primitive Church."
- (ii.) "will continue to minister the Doctrine, and Sacraments and Discipline of Christ as the Lord hath commanded, and will maintain inviolate the Three Orders of Bishops, Priests, and Deacons."

(iii.) "doth hereby reaffirm its constant witness against all those innovations in doctrine and worship whereby the Primitive Faith hath been from time to time defaced or overlaid."

2.—"The Church of Ireland doth receive and approve the XXXIX. Articles, as received in the Synod at Dublin in 1634, and the Prayer Book as adopted in the Synod at Dublin in 1662, subject to such alterations as may be made by the lawful authority of the Church."

3.—"The Church of Ireland will maintain communion with the Sister Church of England, and with all other Churches agreeing in the principles of this Declaration."

4.—"The Church of Ireland, deriving its authority from Christ, doth declare that a General Synod of the Church of Ireland, consisting of the Archbishops and Bishops, and of Representatives of the Clergy and laity, shall have chief legislative power therein, and such administrative power as may be necessary for the Church, and consistent with its Episcopal Constitution."

This Declaration forms the basis of the contract between the Clergy and the Church of Ireland which will be found in Chapter VII.

(a) *The General Synod* consists of two Houses, the House of Bishops and the House of Representatives. The House of Bishops has a negative upon all

legislation. The House of Representatives consists of 208 Clergy and 416 laity, who must be Communicants, and, upon requisition, the votes are taken by Orders. The General Synod has the power of revising or repealing the Acts of any Diocesan Synod.

(b) *Diocesan Synods*.—The Synod of each Diocese consists of the Bishop, the Clergy (beneficed and licensed), and two lay synodsmen, who must be Communicants, for each parish or district.

If the Bishop interposes his *Veto* upon any Act of the Synod, carried by the Clergy and laity, action shall first be suspended till the next Annual Meeting of the Synod. If the Act be re-affirmed, and the Bishop still interpose his *Veto*, the matter shall be referred to the General Synod, whose decision shall be *final*.

(c) *Election of Bishops*.—The Clergy and laity meet in Diocesan Synod and the Bishop is elected by a majority of the votes of both Orders, voting separately. The House of Bishops retains the ancient right of confirming the Bishop-elect, and if the Synod fails to elect within three months the House of Bishops appoints to the vacant See. When the Primacy of All Ireland is vacant, the Diocese of Armagh elects a Bishop, and the House of Bishops proceeds to elect one of their number to be Primate of All Ireland and Archbishop of Armagh, the Bishop-

elect of Armagh being translated to fill the See vacated by the new Primate.

(d) *Ecclesiastical Courts.*—The Bishop sits in his Diocesan Court with his Chancellor as assessor, who must be a Churchman and a barrister of ten years standing at the Irish Bar. An appeal lies to the Court of the General Synod, which consists of three ecclesiastical and four lay judges, who must be members of the Church of Ireland.

(e) *Capitular Institutions.*—The Cathedral Chapters of the Church of Ireland have at present no representative element in them analogous to the Standing Committee of the American Church. The National Cathedral of S. Patrick at Dublin possesses a representative Chapter, since each Irish Diocese elects a Canon of S. Patrick's from the roll of its own Clergy.

III.—*The Scottish Church.*

The influence of France upon Scotland during the latter period of the middle ages had an evil effect on the Church.

During the great Papal schism the Scotch acknowledged the French Pope at Avignon, whose Court was more corrupt than that of the Italian Pope at Rome.

The Prelates of the Scottish Church during this period were mostly secular politicians, who lived like other great nobles, and the result was that at the Reformation period the murder of Cardinal Beaton

seemed to the majority of Scotch people an act of just retribution. John Knox, who had received Priests' Orders, became the head of a sweeping and thorough ecclesiastical revolution. In 1560 the Scottish Parliament declared Protestantism to be the religion of Scotland, and swept away the Convocations, Liturgy, and Episcopacy of the unreformed Church of Scotland. John Knox composed a "Book of Common Order," which contained certain liturgical forms, and was legalised by the General Assembly. In 1572 the Leith Convention set up titular "Bishops," because it was found that some spiritual peers were necessary to complete the constitutional form of the Scottish Parliament. These "Tulchan" Bishops were never consecrated and had no spiritual powers. In 1592 these titular "Bishops" were abolished by the influence of Andrew Melville, the disciple of Beza (who carried Calvinism to its extremest form), and the Genevan Presbyterian discipline was set up in Scotland.

When James I. became King of England he determined to overthrow Presbyterian Church Government in Scotland. In 1610 the Episcopate was restored to Scotland, and three Presbyterian ministers—Spottiswoode, Hamilton, and Lamb—were consecrated in London by the English Bishops to the Sees of S. Andrew's, Galloway, and Brechin. They were consecrated, *per saltum*, to the Episcopal Office, without previous ordination, as Priests and Deacons. The

new Archbishop of S. Andrew's and his Suffragans proceeded with great caution. Knox's Liturgy was restored and the Genevan system, with Presbyteries, and Kirk Sessions were continued. Had this policy been continued the Scottish nation might gradually have been won back to Apostolic discipline and order. But the extreme Presbyterians, who followed Andrew Melville, created such uncompromising opposition that they had to be dispossessed. After this the unwise policy of forcing on Scotland a Liturgy on the English model, which was vainly attempted by the Bishops under Archbishop Laud's direction, in the issue of the Scotch Prayer Book of 1637, resulted in a religious revolt, which in alliance with the Puritan revolution in England ultimately overthrew Episcopacy in both kingdoms. James I. is credited with the saying, "No Bishop, no King," and it is certain that the Scottish Bishops did not escape the evil influence of the times, and were politically opposed to the true principles of civil and religious liberty. At the Restoration in 1661 Episcopacy was once more restored in both England and Scotland. In Scotland, unfortunately, its restoration was mingled with politics.

Some of the Presbyterians flew to arms and revolted against the Government. Archbishop Sharp, a Presbyterian minister, who had first been ordained Deacon and Priest, and then consecrated to the See

of S. Andrew's, was an active supporter of the Government, and was eventually murdered by some Presbyterian rebels. The cause of Episcopacy, which had made some quiet progress under James I., became identified under James II., with the doctrine of "the Divine Right" of Kings. At the Revolution of 1688 the Scotch Bishops followed Archbishop Sancroft and Bishop Ken in declining to swear allegiance to William of Orange. They acted from conscientious motives and suffered with courage for their convictions. They were entangled by the alliance between Church and State, and the result was the Dis-establishment of the Scottish Church and the setting up of the present Presbyterian Establishment. In 1695 the victorious Presbyterians induced the Scotch Parliament to pass an Act which condemned all the Episcopal Clergy to perpetual imprisonment or exile, who, after being expelled from their Churches, should venture to baptise or solemnise marriages. This savage proscription was slightly modified by the Act of 1711, which allowed the use of the English Liturgy to Clergy who would *qualify* themselves by acknowledging the reigning sovereign. The Act of 1718 commanded all Scottish Episcopalians "to pray in express words" for King George. The Rebellions of 1715 and 1745 found the Clergy of the Scottish Church ranged on the side of the exiled Stuarts. They were not allowed to minister to con-

gregations of more than five persons at a time, but the inherent vitality of the Scottish Church survived the trial. Act 32, George III., diminished the severities of the legal penalties of the Clergy, since the death of Prince Charles Edward had for some time previously enabled them conscientiously to acknowledge the reigning sovereign. They had all along consecrated Bishops, and maintained their Church discipline and organisation. They passed a code of Canons in 1743. They conferred on America the blessing of Apostolic organisation and order by the consecration of Bishop Seabury in 1784. Dr. Routh, the President of Magdalen College, Oxford, who survived as a link between the past and present generation of Churchmen, till 1850, was the English Divine who advised Dr. Seabury to apply to Scotland for consecration. After this date the position of the Scottish Church began to improve. A Synod was held at Aberdeen in 1811 to pass fresh Canons. The Synod of Laurencekirk in 1828 revised the Canons, and accepted the English XXXIX. Articles as a standard. Synods were held at Edinburgh in 1829 and 1838, for further revision, and the Canons were finally revised and amended in 1890.

The Act of 1840 removed most of the disabilities of the Scottish Clergy (3 and 4 Vict.), and in 1864, by Act 27 and 28 Vict., the disabilities were finally removed. In 1863 a Scottish Bishop (Dr. Trower,

of Glasgow and Galloway) was translated to the See of Gibraltar under Letters Patent, and thus acknowledged as a Bishop of the Church of England. In 1893 Bishop G. H. Wilkinson, who had resigned the English See of Truro, and who had sat as a Spiritual peer in the House of Lords, became Bishop of S. Andrew's. These two significant Episcopal translations mark an epoch in the history of the Scottish Church, and manifest its acknowledged position, even from the standpoint of the State, as a sister Church of the Church of England.

The Constitution and Canons of the Scottish Church present several points of special interest.

(a) *The Provincial Synod*.—The House of Bishops meet yearly in Episcopal Synod under the Primus, who is elected to his office by the House of Bishops, although the Primacy is not annexed to any particular See.

When the Provincial Synod meets, the House of Bishops and the House of Clergy deliberate apart. The Clergy are elected on the principle of having one representative for every ten or fraction of ten of the total number of Clergy in each Diocese.

The Scottish Provincial Synod has *no Lay Representatives*, and in this particular it is unlike every other Provincial or General Synod of the Free Churches of the Anglican Communion.

(b) *The Diocesan Synod*.—This is held annually,

and is composed of the Bishop and Clergy having cure of souls within the Diocese. Notice is given to the laity, and all male Communicants of full age can be present at the Synod and may, with the Bishop's permission, address it. But the laity have no vote.

(c) *Election of Bishops*.—The Clergy having cure of souls in the Diocese, and a body of lay Communicants, elected by the Communicants of each parish, form the Elective Assembly. The Clergy nominate, and both Orders vote separately on the name, or names, nominated. A majority of both Orders is necessary to an election. The Primus, with the consent of the majority of the Bishops, confirms the election.

(d) *Ecclesiastical Courts*.—The Episcopal Synod sits as a Court for the trial of a Bishop.

The trial of Clergy, after a preliminary commission of inquiry, is held by the Bishop in his Diocesan Synod of Clergy, who act as assessors, and state their opinions in order of seniority. This plan would not be practicable in large Dioceses. An appeal lies to the Episcopal Synod.

There are two important points that must not be passed by. Canon XL. admits the alternative use of the ancient practice of the use of the sign of the Cross in Confirmation.

Canon XXXIV. sanctions the use of the Scottish Communion Office instead of the English Office in

Churches where it has been in use, and in new Churches the English Office is used unless the majority of the congregation desire the use of the Scotch Office. The Scotch Office is the foundation of the American Office and represents certain features of the primitive Liturgies more closely than the English Office.

IV.—*The Canadian Church.*

In 1763 France ceded to England the whole of North America lying to the North of the Alleghany Mountains, as the result of the capture of Quebec by General Wolfe. The American Revolution, thirteen years afterwards, caused England to lose all the territory to the West of the Provinces of Quebec and New Brunswick, and to the South of the River St. Lawrence, and all the territory West of Detroit River which lay South of the 45th parallel of longitude. The Province of Nova Scotia had been previously ceded to England by France in the year 1713. When the Province was settled the S.P.G. resolved to send six clergymen and six schoolmasters. The Rev. John Breynton was the most distinguished of these men, and he became Rector of S. Paul's, Halifax, in 1754. The leading men of the Province petitioned the University of Cambridge to confer upon him the degree of D.D., which request was complied with. An impulse was given to Church life in Nova Scotia and New Brunswick by the

American War of Independence. A great number of Clergy and Church-people, who declined to accept the Revolution, emigrated to Nova Scotia, New Brunswick, and Canada, and were known as the United Empire Loyalists. Dr. Inglis, who had been Rector of Trinity Church, New York, was the leading man amongst the emigrant Clergy, and on the 12th of August, 1787, he was consecrated at Lambeth by the Archbishop of Canterbury (Dr. Moore) and the Bishops of Rochester and Chester, as the first Bishop of Nova Scotia. This was the first Colonial Bishopric, and its foundation was the direct outcome of the action of the Scottish Bishops in consecrating Dr. Seabury in 1784. The English authorities in Church and State felt that the Episcopate could no longer be denied to the Colonies. The See was founded by Letters Patent, and the Legislature of Nova Scotia passed an Act establishing the Church, just as Maryland and Virginia had done many years before. At first Bishop Inglis had only ten Clergy in Nova Scotia, six in New Brunswick, and six others for the rest of Canada. In 1793 his vast Diocese was subdivided, and Bishop Mountain was consecrated first Bishop of Quebec. In August, 1839, the See of Toronto was founded, and Bishop J. Strachan was consecrated by the Archbishop of Canterbury as its first Bishop. He was a man with great gifts of organisation. In 1832, when Archdeacon of Toronto,

he had drafted a Constitution for the Canadian Church, based on its government by Synods of Clergy and laity, like the system of the American Church.

But the traditions of Church and State in Canada died hard, and Bishop Strachan had to wait many years for the realisation of his ideal. In 1845 Bishop Medley was consecrated first Bishop of Fredericton, and in 1849 Bishop Anderson was consecrated first Bishop of Rupertsland, which embraced the then unsettled Province of Manitoba, and the vast expanse of the Hudson's Bay Company's territory. In 1850 Bishop Fulford was consecrated first Bishop of Montreal. In 1857 Bishop Cronyn was elected first Bishop of Huron, and was consecrated by the Archbishop of Canterbury. In 1862 Bishop J. T. Lewis, who is now Metropolitan of Canada, was consecrated first Bishop of Ontario. These two new Dioceses were both formed out of the Diocese of Toronto. In 1873 Bishop Fauquier was consecrated first Bishop of Algoma, which was a further sub-division of the Diocese of Toronto. In 1875 Bishop Fuller was consecrated first Bishop of Niagara, which was formed out of the Diocese of Huron. These nine Dioceses form the ecclesiastical "Province of Canada." The rapid development of Manitoba and the Hudson's Bay territory has caused the Diocese of Rupertsland to expand into a Province. In 1872 Bishop Horden was consecrated first Bishop of Moosonee. In 1874

Bishop McLean was consecrated first Bishop of Saskatchewan, and Bishop Bompas as first Bishop of Athabasca, now known as the Diocese of Mackenzie River. In 1884 Bishop A. Anson was consecrated first Bishop of Qu'Appelle, and in the same year Bishop R. Young was consecrated to the Diocese of Athabasca, which sub-divided the Diocese of Mackenzie River. In 1887 Bishop Pinkham was consecrated to the new See of Calgary, to which the Diocese of Saskatchewan is temporarily annexed, and in 1890 Bishop Bompas was translated to the new Diocese of Selkirk.

The ecclesiastical "Province of Rupertsland," which was constituted in 1875, consists of the Dioceses of Rupertsland, Moosonee, Saskatchewan, Mackenzie River, Qu'Appelle, Athabasca, Calgary, and Selkirk. It is organised under a Provincial Synod of clerical and lay representatives from each Diocese, and Diocesan Synods. The unattached North American Dioceses are Newfoundland, British Columbia, Caledonia, and New Westminster. The consolidation of these Dioceses with the two ecclesiastical Provinces of Canada and Rupertsland into one united Canadian Church, under a Primate of Canada, is now in progress.

We must now trace briefly the steps which gradually freed the older Dioceses of Canada from the trammels of the State connection.

In 1853 Bishop Strachan summoned a Diocesan Synod of Clergy and laity at Toronto. The action of the Australian Bishops in 1850 had prepared the way for this step, and the Synod was attended by 124 Clergy, and 127 lay delegates. Its Constitution, as Bishop Strachan stated in his original draft, "was suggested by, and in the main copied from, the Constitutions of the Diocesan Conventions in the United States."

Bishop Mountain followed Bishop Strachan's example and summoned the Diocesan Synod of Quebec.

Bishop Fulford issued a remarkable address in which he set forth the true position of the Canadian Church in the following words: "While, spiritually, we are identified with the Church of the Mother Country, emanating from her, using the same Liturgy, subscribing the same Articles, blest with the same Apostolic Ministry, visibly forming part of the same ecclesiastical body, and claiming as our own all her mighty champions, confessors, and martyrs, yet, in a political sense, and as regards temporalities, *and everything that is understood by legal establishment, or as conferring special privileges above other religious communities*, we are in a totally dissimilar situation. We exist but as one of many religious bodies, consisting of such persons as may voluntarily declare themselves to be members of the Church of England. There cannot be the slightest

advantage or wisdom, but quite the reverse, in putting forward claims for special consideration, claims which, circumstanced as we are here, if they would be granted to us to-day, it must be absolutely absurd for us to expect to maintain."

Bishop Fulford here lays down clearly that Churchmen in the Colonies are in precisely the same position of ecclesiastical freedom as Churchmen in America.

On the 23rd of September, 1851, five of the Bishops met in Synod at Quebec, and issued the memorable "Declaration of the Bishops of British North America." In this document the Bishops stated their opinion that Diocesan Synods needed a Provincial Synod to complete the organisation of the Church. They stated, "It is our opinion, that as questions will arise from time to time which will affect the welfare of the Church in these Colonies, it is desirable that the Bishops, Clergy, and laity should meet in Council, under a Provincial Metropolitan, with power to frame such rules and regulations for the better conduct of our ecclesiastical affairs, as by the said Council may be deemed expedient."

The Bishops grasped the true principle that Provincial action is the keystone of Church unity, but they felt unable to rise to the level of Bishop Fulford's definition of the position of the Canadian Church, and they applied to the Crown and the Colonial Legislature for power to appoint a Metropolitan.

Bishop Fulford, of Montreal, was appointed Metropolitan of Canada by Royal Letters Patent in 1860, and the first Provincial Synod of Canada was held at Montreal in 1861.

When the decision of the Privy Council in the Colenso case declared that the issue of Letters Patent to Colonial Bishops was *ultra vires*, and that they were invalid, as conveying no coercive jurisdiction, Lord Carnarvon, the Secretary of State for the Colonies, informed the Canadian Church that no more Letters Patent would be issued. From that date the Canadian Church has been free from every vestige of State interference.

We do not purpose to describe in detail the Constitution and Canons of the two Canadian Provinces. We have previously noted the fact that the reorganisation and consolidation of the Church in British North America is now in progress, and that the two Provinces and the autocephalous Dioceses will be united under a Primate of *All Canada* and a *General* or national Synod, whose first session has just taken place, with the result that the title of Archbishop has been restored to both the Metropolitans.

Speaking generally, it is enough to say that the Provincial Synods are composed of the Bishops of each Province and a lower House of Clergy and laity. The Provincial Synod of Canada has a large Lower House, which consists of twelve clerical and twelve

Lay representatives from each Diocese. The Diocesan Synods are composed of the Bishop of each Diocese, and an equal proportion of Clergy and laity.

Voting by Orders, as in the American and Irish Churches, is resorted to under a fixed regulation.

The Bishops are elected by the Clergy and laity as in the American, Irish, and Scottish Churches. The election of Bishop Cronyn to the See of Huron, by the Clergy and laity of the newly formed Diocese, took place in July, 1857, forty-two Clergy were present and sixty-nine lay representatives of the various parishes. Bishop Strachan of Toronto presided over the Elective Assembly. This election is memorable as being *the first free election of a Bishop* by the Clergy and laity of his Diocese which ever took place in the Colonial Church.

The Diocesan Courts have an appeal to the Provincial Court, and the judicial system is moulded upon the same general lines as that of the Church of Ireland.

V.—*The Australian Church.*

The independence of the United States caused the British Government to look for a fresh country for the reception of its convict population. The coast of New South Wales had been explored by Captain Cook in 1770, and Botany Bay received its name from Sir Joseph Banks, the naturalist of the expedition. In 1787 the first convict settlement was made

on the banks of Sydney Cove, when 565 men and 192 women were landed under a guard of 200 soldiers. William Wilberforce procured the appointment of a Chaplain for these outcasts from civilisation, and the Bishop of London appointed the Rev. R. Johnson to the onerous post. For seven years Mr. Johnson laboured amongst the criminals single-handed. In 1793 a rude Church of wattles and plaster with a roof of thatch was erected at Sydney, at Mr. Johnson's own expense. The S.P.G. made a grant in aid of schoolmasters and mistresses, and the Rev. S. Marsden was appointed Assistant-Chaplain of New South Wales in 1794. In 1808 the Rev. W. Cooper arrived as Mr. Marsden's assistant, Mr. Johnson having left in 1801. In 1813 other settlers had arrived, and the population of the colony increased to 17,000, out of whom 7,000 were convicts. There were only five Clergy to minister to the people, who were scattered over a large area of country. In 1824 the Archdeaconry of New South Wales was formed, and added to the Diocese of Calcutta, and in 1829 the Rev. W. Broughton was appointed Archdeacon. The condition of the colony grew worse and worse. In 1833 there were only 17,528 free men in the country, while the convict male population amounted to 21,845. Archdeacon Broughton appealed to the S.P.G., and said: "The question which the people of this nation have to consider is whether they are prepared to lay

the foundation of a vast community of infidels, and whether they can answer to Almighty God for conniving at such an execution of the transportation laws as will infallibly lead on to this result." In 1836 Archdeacon Broughton was consecrated first Bishop of Australia under Letters Patent. In 1837 the S.P.G. began to send out Clergy to Australia and Tasmania, and within a year no less than thirty were thus provided.

A Report to the House of Commons in 1838 stated that "Sydney contained about 20,000 inhabitants, of whom 3,500 were convicts and about 7,000 had been prisoners of the Crown. More immorality prevailed in Sydney than in any other town of the British dominions." No wonder the Bishop and his Clergy were almost overwhelmed by the task which lay before them. In 1839 the transportation of felons to New South Wales ceased, and free emigrants came to the country in larger numbers. Church building went on apace, largely helped by the S.P.G., and the enormous Diocese of Australia was subdivided by the consecration of Bishop Selwyn as first Bishop of New Zealand in 1841, Bishop Nixon as first Bishop of Tasmania in 1842, and Bishops Short, Tyrrell, and Perry in 1847 to the newly founded Sees of Adelaide, Newcastle, and Melbourne. Bishop Broughton became Metropolitan and Bishop of Sydney by Royal Letters Patent in 1848. In 1857 the Diocese of Perth

was formed out of the Diocese of Adelaide ; in 1859 the Diocese of Brisbane was formed out of Newcastle ; in 1863 the Diocese of Goulburn was formed out of Sydney ; in 1867 the Diocese of Grafton and Armidale was formed out of Newcastle ; in 1869 the Diocese of Bathurst was formed out of Sydney ; in 1875 the Diocese of Ballarat was formed out of Melbourne ; in 1878 the Diocese of North Queensland was formed out of Sydney ; in 1884 the Diocese of Riverina was formed out of Goulburn ; and in 1892 the Diocese of Rockhampton was formed out of Brisbane.

The ecclesiastical Province of New South Wales comprises the Metropolitan See of Sydney, and the Dioceses of Newcastle, Goulburn, Bathurst, Grafton and Armidale, and Riverina. The other Dioceses of Australia and Tasmania are united under the General Synod, which meets once in every five years under the presidency of the Bishop of Sydney, who is Primate of Australia as well as Metropolitan of New South Wales.

The authority of the General Synod is weakened by the fact that the various Diocesan Synods were established long before it came into existence in 1872. The Provincial Synod of New South Wales was established in 1866, but it may be stated generally that the Diocesan Synods have reserved to themselves such large powers, that the balance of

ecclesiastical control lies with them rather than with the General or Provincial Synods. This is the chief defect in the organisation of the Australian Church, but, in noting its existence, we must not forget that the Conference of the Australasian Bishops at Sydney, in October, 1850, laid the true foundation of the Synodical government of the Colonial Churches. The Conference was composed of the Bishops of Sydney (Broughton), New Zealand (Selwyn), Tasmania (Nixon), Adelaide (Short), Melbourne (Perry), and Newcastle (Tyrrell). The Conference expressed its doubts as to how far they were "inhibited by the Queen's supremacy from exercising the powers of an ecclesiastical Synod," but the Bishops placed on record their conviction of the necessity for duly constituted Provincial and Diocesan Synods which should deliberate with Provincial and Diocesan Conventions of laymen upon the affairs of the Church. Bishop Short of Adelaide obtained a strong legal opinion from England to the effect that Colonial Bishops might summon Synods. The Diocesan Synod of Melbourne was formed in 1854, and that of Adelaide in 1855. The other Dioceses rapidly followed suit. The Australian Synods, both General, Provincial, and Diocesan, are composed of Clergy and laity. The Diocesan Courts have been created by the various Diocesan Synods. The Bishop sits with assessors as in the Diocese of Adelaide,

or with a selected "Board of Triers" composed of three Clergy and three laymen. The latter system prevails in the Dioceses of Sydney, Melbourne, Victoria, Ballarat, and Perth. An appeal from these Diocesan Courts lies to the Appellate Tribunal of the General Synod. It is composed of five members: the Primate, one other Bishop (elected by the House of Bishops), a Priest, elected in General Synod by the clerical representatives, and two laymen, one elected by the General Synod, voting collectively, and the other elected by the lay representatives of the General Synod. This Committee of Appeal of the General Synod can either reverse the decision of the Diocesan Court, or direct the Diocesan Court to rehear the case. And it is further laid down that "if in the opinion of the Committee the matter of appeal concerns a question of Doctrine, or of Discipline involving a question of Doctrine, the Committee may, at its discretion, state a case for the opinion thereon of a body in England to be called the Council of Reference." This Council of Reference consists of the Archbishops of Canterbury and York and the Bishop of London, and four laymen learned in the law. The opinion of this Council is binding upon the Committee. It is not a satisfactory arrangement, and may be regarded as a testimony to the great need that exists for a central spiritual Tribunal of Appeal for the whole Anglican Communion.

VI.—*The South African Church.*

In the middle of the seventeenth century the Dutch East India Company founded a colony on the Cape Peninsula.

After the Revocation of the Edict of Nantes a number of French Huguenots emigrated to South Africa, and their descendants, by intermarriage with the Dutch settlers, form the predominant type of the Dutch South African population of the present day. Capetown had become a considerable city about the middle of the eighteenth century, and the Dutch Reformed Calvinists were the Established Church of South Africa. In 1795 the Cape Colonists were imbued with the principles of the French Revolution, and were in open revolt against the Dutch East India Company. Capetown was captured by an English fleet and army, and the Colony was held by England till the Peace of Amiens. In 1806 England again captured the Cape Colony, and it was finally ceded to the British Empire. English settlers began to pour into the country, and in 1820 over 4,000 carefully selected emigrants, many of them men of some means and position, settled in the eastern districts of the Colony and founded the towns of Grahamstown and Port Elizabeth. The Church made no adequate provision for these settlers. There were a few Colonial Chaplaincies established, and a few Churches built, and, very occasionally, an Indian Bishop touched

at the Cape and held a Confirmation. The consecration of Bishop Gray as the first Bishop of Capetown on S. Peter's Day, 1847, was the real beginning of Church work in South Africa. No Bishop ever had a more hopeless task to face. The Dutch population outnumbered the English by at least three to one, and the English were not only scattered in little groups all over the country, but miserably divided by sects and schisms. The Church formed an insignificant minority. There were only a dozen Clergy and two military Chaplains, and these were divided amongst themselves in consequence of their isolation and lack of organisation. Bishop Gray secured the services of Arch-deacon Merriman, who was afterwards third Bishop of Grahamstown, and of a few other Clergy, and set resolutely to work. The Bishop held a Synod of Clergy in 1849, which decided that the Colonial Government had no right to interfere in the internal affairs of the Church. The protest was needful, for the Governor of the Cape Colony was formerly styled "Ordinary," and one Governor suspended the Colonial Chaplain of Grahamstown because he declined to marry an uncle to his niece, and boldly disregarded the fact that the Governor had issued a special marriage license permitting it. After visiting the whole of his vast Diocese, the Bishop went to England and procured the subdivision of his See. He became Metropolitan by Letters

Patent, and the Sees of Grahamstown and Natal were founded in 1853.

In 1857 the Diocesan Synod of Capetown was founded, and consisted of the Bishop, Clergy, and lay representatives from each parish. In 1859 the Diocese of S. Helena was founded, and on January 1st, 1861, Archdeacon Mackenzie was consecrated in Capetown Cathedral as the first Missionary Bishop of the English Church.

Bishop Gray was told by the Crown lawyers that it was illegal to consecrate a Missionary Bishop for territories outside the British Empire. The Archbishop of Canterbury hesitated, and the fetters imposed by the legal traditions of the Establishment would have effectually hindered the foundation of the Missionary Episcopate of the Church of England, if Bishop Gray had not acted upon his inherent rights, as Metropolitan, and consecrated the Missionary Bishop for the Zambesi on his own responsibility.

The Capetown Diocesan Synod met for the second time in 1861, and Mr. Long, the Incumbent of Mowbray, refused to attend or to give notice of a meeting to elect a lay representative. He was tried for contumacy by the Bishop and five Clergy as assessors in the Diocesan Court, and sentenced to three months' suspension. Mr. Long ignored the sentence and appealed to the Supreme Court of the Cape Colony. Bishop Gray defended his own case before the civil

tribunal, and in February, 1862, the judges of the Supreme Court decided in the Bishop's favour. Mr. Long appealed from the Supreme Court to the Privy Council, who reversed their verdict. We shall comment in Chapter VII. upon this judgment, and show how the technical defeat of the Bishop tended towards the ultimate freedom of the Colonial Churches. In 1863 the territory of the Dutch Republic, known as the Orange Free State, was formed into a Bishopric, which was afterwards known as the Diocese of Bloemfontein. This year was also memorable for the trial of Bishop Colenso for heresy. Bishop Gray tried every possible means to induce his erring Suffragan to reconsider his opinions, and he did not proceed to the trial until the Archbishop of Canterbury and the English Bishops counselled him to do so. The opinions of Dr. Colenso had a distinctly Unitarian bias, which developed more and more as time went on. His Commentary on the Epistle to the Romans contained statements which were incapable of being reconciled with the teaching of the Prayer Book and XXXIX. Articles.

The Metropolitan, with the Bishops of S. Helena, Grahamstown, and the Orange Free State concurring, deposed Dr. Colenso from the Bishopric of Natal. As we shall explain in Chapter VII. this judgment had no civil effect, because Dr. Colenso had entered into no legal contract to obey the decisions of the

Court of the Metropolitan. The moral and ecclesiastical issues of the judgment were untouched by the decision of the Privy Council.

In 1869 the Rev. W. K. Macrorie was consecrated in Capetown Cathedral as the successor of the deposed Bishop of Natal. Dr. Colenso returned to Natal and claimed his position as "Queen's Bishop under Letters Patent." The loyal Clergy and laity rallied to Bishop Macrorie, who had to build a new Cathedral at Maritzburg, in place of the building which Dr. Colenso claimed. The schism continued with dwindling numbers until Dr. Colenso's death in 1884, since which date negotiations have been in progress with a view to restoring Dr. Colenso's followers to the unity of the Church. In order to further these negotiations for peace Bishop Macrorie resigned, after an Episcopate marked with great wisdom and conciliatory tact, in 1892, and the schism will probably be healed by his successor, Bishop Hamilton Baynes. In 1870 the first Provincial Synod was held, and the Constitution of the Church of the Province of South Africa was framed and adopted. In 1872 Bishop Gray died, and was succeeded in 1874 by the present Metropolitan, Bishop of Capetown, Dr. W. West Jones. In 1876 the second Provincial Synod was held, and the Constitution was finally ratified.

The Diocese of Zululand was founded in 1870, the Diocese of S. John's in 1873, and the Diocese of Pretoria in 1878.

In 1880 the Supreme Court of the Colony adjudicated upon the Grahamstown Cathedral case. Dean Williams of Grahamstown had excluded Bishop Merriman of Grahamstown from the pulpit of the Cathedral, and had in various other ways acted in opposition to the Constitution and Canons of the Province which he had himself helped to frame, as a member of the Provincial Synod of 1870. He was condemned by the Diocesan Court of Grahamstown in 1879 for contumacy, and sentenced to suspension. He defied his Bishop and placed the Cathedral in schism from the rest of the Diocese. The Bishop appealed to the Supreme Court to eject the Dean from the Cathedral in furtherance of the sentence of the Diocesan Court. The Supreme Court decided against the Bishop, because the trust deed of the Cathedral was drawn before Bishop Gray's consecration, and the Court held that the Church of the Province of South Africa had no legal title to buildings that were governed by a State ordinance and set apart for the worship of the "United Church of England and Ireland."

The Privy Council, on appeal, maintained this part of the judgment of the Supreme Court, and further stated that the Church of South Africa had severed itself from the Church of England by the *third proviso* in its Constitution, which shut out Privy Council decisions in matters of faith, doctrine, and discipline.

The Privy Council took the extraordinary line that its decisions were part of the authoritative and official *credenda* of the Church of England.

This was the *ne plus ultra* of Erastianism. Thomas Hobbes wrote his "Leviathan" in 1651. His positions have been accurately summed up as follows: "With the State rests the distinction of right from wrong. What it sanctions is good, what it punishes is bad, what it believes is true religion, what it condemns is superstition" (*National Encyclopædia*, p. 183). The Privy Council virtually adopted the *dicta* of Hobbes, and applied them to its own utterances.

The judgment praised the judicial impartiality and ability of the Diocesan Court, and said that Dean Williams had personally contracted to obey its decisions, but that his contract could not be enforced in a building originally belonging to the Church of England, because the South African Church had ceased to accept the same standards of faith and doctrine as the Church of England.

This Erastian judgment roused the Bishops of England. Archbishop Tait wrote to the South African Metropolitan to assure him that the Privy Council theory of separation between the Mother Church and its South African daughter was baseless. Bishop Harold Browne of Winchester stated that the claim of the Privy Council to place their judgments among the official *credenda* of the Church of Eng-

land was unheard of and inadmissible. Bishop Moberly of Salisbury took the same line, and in much stronger language. It is not too much to say that the Grahamstown judgment of the Privy Council roused Churchmen to demand the Royal Church Courts Commission that sat in 1883, and caused the final discrediting of the Privy Council as an Ecclesiastical Court, and its recommended abolition in the final report of the Commission.

Meanwhile, Churchmen in South Africa were face to face with a great crisis. All Church property owned previously to Bishop Gray's consecration in 1847 was affected by the judgment. A few weak and timid Churchmen desired the Provincial Synod of 1883 to abolish the proviso against Privy Council judgments to secure this property. But the Synod, after a long and thorough debate, declined to make the least concession to Erastianism. The Church preferred to lose its property rather than yield its spiritual independence. The proposal to rescind the proviso was rejected in the House of the laity, so that the Clergy and Bishops had no need to exercise their vote of rejection upon it at all. A Bill was passed by the Cape Parliament in 1892 which permitted the abolition of the old State ordinances which severed certain Churches from the control of the Provincial Synod, and the judgment of the Supreme Court in the case of Trinity Church, Capetown, settled

the property question on a secure basis. The trusteeship of the Bishop of Capetown of a Church fabric was before the Court, and it was decided that no other Bishop was likely to be appointed under Letters Patent who would have a better claim to the property than the Bishop of Capetown as at present elected and appointed. Since that date the South African Church has shewn peaceful progress and development.

The Provincial Synod of 1891 established the two new Missionary Dioceses of Mashonaland and Lebombo, and the religious census of the same year showed the wonderful growth of the Church in the Cape Colony. The native work has shown a large increase, and amongst the English-speaking population, the Church, with a total of 70,000, outnumbered by 10,000 the gross total of the Presbyterians, Wesleyans, Roman Catholics, Lutherans, and other lesser bodies.

The single Diocese of 1847 has become a Province with ten Dioceses, in each of which Missionary work to the heathen is carried on as well as the care of the European population.

The *Provincial Synod* consists of the House of Bishops, the House of Clergy, and the House of lay representatives. The Clergy and laity are elected by the Clergy and lay representatives of the Diocesan Synods in the proportion of one for every ten,

or fraction of ten, of the total number of Clergy in the Diocese.

The Provincial Synod has the power of reviewing and annulling, if needful, any act of a Diocesan Synod.

The *Diocesan Synods* are composed of the Bishop of each Diocese, the Clergy having cure of souls, and lay representatives elected on the basis of one for each parish and chapelry. All lay representatives, both in the Provincial and Diocesan Synods, must be Communicants.

The *Elective Assembly*, for electing a Bishop, is composed of the Clergy having cure of souls and lay representatives elected by the male Communicants of each parish or chapelry. The Clergy propose a name, and the laity have to express their assent to the nomination of the Clergy. If they reject one name another must be nominated until the laity accept a name. The Assembly, subject to the consent of the Bishops of the Province, can delegate the choice of a Bishop to certain persons. The Metropolitan and Bishops confirm the election, or, in the case of delegation, confirm the choice of those to whom delegation is made.

The *Ecclesiastical Courts* are, first, the Diocesan Court in which the Bishop sits, aided by two clerical and one lay assessors. The Court of Appeal consists of the Metropolitan and Bishops of the Province, three clerical assessors, and one lay assessor. The

appointment of the lay assessor is optional, both in the Diocesan Court and in the Tribunal of Appeal. The main feature of the Constitution of the South African Church is its declaration of independence of Privy Council case-law in all its tribunals. It points to a future spiritual Tribunal of Appeal for the whole Anglican Communion, and after accepting the standards and formularies of the Church of England, it proceeds: "Provided also that in the *interpretation* of the aforesaid standards and formularies, the Church of this Province be not held to be bound by decisions in questions of Faith and Doctrine, or in questions of Discipline relating to Faith and Doctrine, other than those of *its own Ecclesiastical Tribunals*, or of such other tribunal as may be accepted by the Provincial Synod as a Tribunal of Appeal." The Capitular system reproduces too closely the Cathedral organisation of the middle ages. The principle of election of Canons by the Clergy and Chapter obtains in some Dioceses, but the Chapters, as a whole, lack the power and influence exercised by the Standing Committees in America and New Zealand, owing to the absence of the lay element.

VII.—*The Indian Church.*

The Charter granted to the East India Company in 1698 ordered them "constantly to maintain in every garrison and superior factory one minister (to be approved by the Bishop of London), and to

provide there one decent and convenient place for Divine service only."

But the Company did as little as they could help, until the House of Commons put the following clause into their renewed Charter in 1814: "That it is expedient that the Church Establishment in the British territories in the East Indies should be placed under the superintendence of a Bishop and three Archdeacons." On May 8th, 1814, Bishop Middleton was consecrated at Lambeth to the See of Calcutta. The authorities were so afraid of the political consequences of this step that the consecration was performed privately, and the publication of the sermon preached on the occasion was suppressed. In 1835 the See of Madras was founded, and in 1837 the Indian Episcopate was extended by the foundation of the See of Bombay. All these Sees were tied and bound by Letters Patent, which have effectually prevented the organisation of the Indian Church.

The Bishop of Calcutta became Metropolitan by Letters Patent, which gave him a certain amount of jurisdiction, subject to an appeal and review of his decisions by the Archbishop of Canterbury. But the fettered condition of the Indian Church is best described in the words of the present Duke of Rutland in a speech made in 1857. He said, "Let us look back upon the hindrances thrown year by year by the State in the way of the Church making

her voice heard throughout India, and we shall see how, when Christianity, so to speak, was tolerated there, every restriction and every fetter that could impede her free action was resorted to, as if Christianity was some dangerous revolutionary spirit, which if once let loose might shiver into fragments the fragile framework of Anglo-Saxon society and Anglo-Saxon Government."

This is a heavy indictment against the Erastian Letters Patent, which still bind the Indian Church. We have included a brief notice of the Indian Church in this Chapter in order to trace the increase of its Episcopate, and to mark the fact that one Diocese in the "Ecclesiastical Province of India and Ceylon" has escaped from State control. We allude to the Diocese of Colombo, where a duly constituted Diocesan Synod has been formed, which is working admirably. The Disestablishment of the Church in Ceylon has proved an unmixed blessing, and may be regarded as an earnest of the progress awaiting the other Indian Dioceses when they are freed from connection with the State.

The Ecclesiastical Province of Calcutta and Ceylon consists of the following Dioceses :—

Calcutta (Metropolitan)	Founded	1814
Madras	"	1835
Bombay	"	1837
Colombo	"	1845

Lahore	...	...	...	Founded	1877
Rangoon	...	...	...	,,	1877
Travancore and Cochin	...	...	...	,,	1877
Chota Nagpur	...	...	...	,,	1890
Lucknow	...	...	...	,,	1893

VIII.—*The Church of New Zealand.*

The Colony of New Zealand consists of the North, Middle, and South Islands, which Captain Cook in 1777 found to be inhabited by the Maoris, a fierce and warlike race of cannibals. The Islands were occasionally visited by whalers and traders from Australia. On one of the return voyages two New Zealand chiefs landed in Australia and had friendly intercourse with the Government Chaplain, the Rev. S. Marsden.

Mr. Marsden appealed to the Church Missionary Society to found a Mission, and in 1809 he headed the forlorn hope himself, and landed with three lay Missionaries, under the protection of Ruatura, one of the Maori chiefs he had met in Australia. Mr. Marsden was the true pioneer of Missionary work in New Zealand, and the peaceful labours of his colleagues enabled the Islands to be colonised and ultimately annexed to the Empire. Mr. Marsden returned to his duties in Australia in 1815, and it was not till 1825 that the first Maori convert was baptised. The language was reduced to writing by the C.M.S. Missionaries, and the New Testament and Prayer Book were printed in Maori in 1838. The

Islands were annexed to the Empire in 1840, and a large influx of English emigrants was the result. Auckland, which was the seat of government, soon became a town of 1,500. On October 17th, 1841, Dr. G. H. Selwyn was consecrated first Bishop of New Zealand. Bishop Selwyn had courageously battled with the law officers of the Crown upon the terms of his Letters Patent. He complained that they were Erastian, and even profane. He saw very clearly that the shadow of the Royal Supremacy would prove a blight upon the Colonial Churches. He insisted on the withdrawal of the clause in the Letters Patent which precluded a Bishop in the Colonies from appointing his own Archdeacons. The Crown lawyers defended the objectionable clause on the ground that the Queen was "the fountain of honour," and that ecclesiastical titles of honour must proceed from her just in the same way as civil titles, such as Peerages and Baronetcies. The Bishop carried his point, although he had to yield other points, until he was able in after years to resign his Letters Patent.

The Church of New Zealand began a great Missionary career under Bishop Selwyn. The Maori race became Christian, and the colonists were brought under the pastoral care of the Church throughout all the three Islands. The Canterbury settlement was intended to be a great scheme of Church colonisation. It partially failed, but the foundation of the City and Diocese of

Christchurch, with its beautiful cathedral, was the direct result of the landing of the "Canterbury pilgrims." Bishop Harper was consecrated first Bishop of Christchurch in 1856, and his appointment gave rise to the famous case, *Regina v. Eton College*, which had such important results in defining the legal position of the Church in the Colonies. A summary of this case will be found in Chapter VII.

In 1858 the three Sees of Wellington, Nelson, and Waiapu were founded. In 1861 the Missionary Diocese of Melanesia was founded, and the Rev. J. C. Patteson was consecrated as its first Bishop on S. Matthias' Day, 1861. Correspondence had taken place between the Colonial Office and Bishop Selwyn with regard to this consecration. The usual objections of the Crown lawyers were made to the consecration of a Bishop for territories outside the Empire. But Bishop Gray had brushed aside the Erastianism of the legal advisers of the Crown by his consecrating Bishop Mackenzie in Capetown Cathedral as Missionary Bishop of the Zambesi, on January 1st of the same year. Bishop Selwyn felt he could do what Bishop Gray had done, and the principle was established that the Bishops of any Province could exercise their *own inherent spiritual right* in consecrating a Bishop without asking the leave of the Imperial Government.

The next See founded in New Zealand was that of

Dunedin, in 1866. Bishop Selwyn had been the moving spirit of the Conference of the Australasian Bishops in 1850, of which mention has been previously made. He lost no time in taking practical steps to carry its conclusions into effect. We have noted that in Australia the Diocesan Synods overshadow the General Synod. In New Zealand the reverse was the case. In 1850 Sir George Grey was Governor of New Zealand. He was a man of very remarkable powers as a statesman and leader. In conjunction with Sir W. Martin, the Chief Justice, and others he framed a draft Constitution for the Church of New Zealand, which the Bishop laid before the Sydney Conference. That draft was the basis of the New Zealand Constitution of the present day. Its leading ideas embodied Bishop Selwyn's views, but he was too wise a statesman not to allow as much initiative as possible to the laity. The Bishop next put forth the scheme in a Pastoral Letter, and suggested the summoning of a General Convention of Bishops, Clergy, and laity to settle the Church Constitution. Sir G. Grey and his co-memorialists desired this, and directly alluded to the system "which has proved so beneficial to our brethren in America, and which we should all be satisfied to see adopted here." The impress of the American Church is very clearly seen in the Constitution and Canon law of the Church of New Zealand.

There were controversies and difficulties. The Diocese of Christchurch objected to the effacement of Diocesan Synods by the overwhelming powers of the General Synod. These objections had their due weight with Bishop Selwyn, but he saw the danger of allowing a reproduction of the "Diocesan congregationalism" of Australia in New Zealand. The Constitution had been provisionally settled by a Conference of Bishops, Clergy, and laity in 1857. The first General Synod met in July, 1858, and its proceedings were of a cautious and tentative character. The second General Synod was held at Nelson in 1862, and the Diocese of Christchurch was practically unrepresented. The third General Synod was held at Christchurch in 1865. The Clergy and laity of the Diocese of Christchurch were met in a conciliatory spirit, and the Constitution was thoroughly revised. Since that date it has practically remained unaltered.

The *General Synod* is composed of the House of Bishops, and of three clerical and four lay representatives, who must be Communicants, from each Diocese. All acts of the General Synod must be assented to by a majority of all three Orders.

The *Diocesan Synod* consists of the Bishop of each Diocese, the Clergy having cure of souls, and lay representatives, who must be Communicants, elected on the basis of one representative for each parish or parochial district.

The *Election of Bishops* takes place in Diocesan Synod. The nomination of a clergyman to the office of Bishop must be made by one of the Clergy and seconded by one of the laity, and a majority of votes in each Order is necessary to an election.

The *Ecclesiastical Courts* are constituted as follows : The Diocesan Court is presided over by the Bishop's Chancellor and is composed of two Clergy and two laymen, elected by lot. The Chancellor certifies the result of the trial to the Bishop, and the Bishop gives judgment and passes sentence. From the Diocesan Court an appeal lies to the Court of Appeal, which is composed of the Bishops of the Province. The American system of Standing Committees has been adopted, with modifications, by the Church of New Zealand, and the Standing Commission of the General Synod has the power of interpreting statutes and deeds, and the Church Constitution, if doubtful points arise when the General Synod is not sitting. It also acts as a Court of Appeal from the decisions of Diocesan Synods.

IX.—*The West Indian Church.*

The Church was established by law in Barbados in 1629, and in Jamaica in 1662. Similar arrangements obtained in most of the other West Indian Islands until a recent date.

But it was not till 1824 that the State founded the Bishoprics of Jamaica and Barbados under

Letters Patent. In 1842 the Sees of Antigua and Guiana were founded, and the extension of the Episcopate has proceeded by the founding of the Dioceses of Nassau (1861), Trinidad (1872), Windward Islands (1878), and British Honduras (1883). The Diocese of the Windward Islands is under the charge of the Bishop of Barbados, and forms the disendowed portion of his Diocese. State aid is still continued in the Diocese of Barbados. The organisation of the West Indian Church has proved a matter of great difficulty, owing to the varied circumstances of the Dioceses which compose it. Diocesan Synods were established in Guiana, Jamaica, and elsewhere. In 1883 the West Indian Dioceses were united into an Ecclesiastical Province, under the Primacy of the Bishop of Guiana, and a Constitution and Canons were drawn up which were modified in 1887 and finally ratified in 1888. The difficulties of summoning a House of Clerical and lay representatives proved insuperable, owing to the long distance between the Islands and the poverty of the Church. The Provincial Synod, therefore, consists at present of the House of Bishops, until the various Diocesan Synods are prepared to elect clerical and lay representatives to form a Lower House.

The Provincial Synod have passed a Constitution providing for the election of a Primate from the House of Bishops ; for the reviewing under specified

conditions of the Canons passed by a Diocesan Synod ; for the regulation of the Episcopal Veto upon the Acts of a Diocesan Synod (upon the same principle as is adopted in the Church of Ireland), and for the future summoning of a Lower House of Clergy and laity.

The Provincial Synod has also passed nine Canons.

(i.) Forming a Court of Appeal from the Diocesan Courts, to consist of the Primate and the two senior Bishops.

(ii.) Forming a Committee of Reference in England, consisting of the Archbishops of Canterbury and York and the Bishop of London.

(iii.) Of election and confirmation of Bishops, whereby the Primate and a majority of Bishops confirm the Election.

(iv.) Providing that at the consecration of a Bishop he shall take an oath of obedience to the Archbishop as well as a declaration of obedience to his own Primate.

[This Canon does not specify *which* Archbishop is meant, and its provisions are at variance with primitive Canon law, *because no Bishop can acknowledge the jurisdiction of two Primates at the same time.*]

(v.) Providing for the resignation of Bishops, and the declaration of the vacancy of a See.

(vi.) Providing for the trial of Bishops before the Primate and House of Bishops.

(vii.) Of the formation of new Dioceses.

(viii.) Legalising certain abbreviations in the Services, mainly in accordance with the provisions of the English *Act of Uniformity Amendment Act*, of 1872.

(ix.) Providing that the meetings of the Provincial Synod shall be held in each Diocese by rotation.

There is also a provision in the Constitution by which the Provincial Synod remits certain matters to the consideration of the Diocesan Synods. It uses the consent of the Diocesan Synods to a new Canon as a substitute for the consent of the Lower House of the Provincial Synod, if such an Assembly were summoned.

CHAPTER VI.

THE GENERAL PRINCIPLES OF THE CONSTITUTIONS AND CANON LAW OF THE FREE CHURCHES OF THE ANGLICAN COMMUNION COMPARED WITH PRIMITIVE USAGE AND PRECEDENTS.

THE brief historical sketch of the position of the Free Churches of the Anglican Communion, which has already been supplied, will have prepared the way for an examination of the general principles which underlie their organisation.

We have already seen from our examination of the relations of Church and State, that the Church, as an organised body, expresses her living voice in her Councils and Synods, whether they be Œcumenical, National, General, Provincial, or Diocesan. We have also seen how the alliance between Church and State has had a paralysing effect upon the freedom of the Synods of the Church, and that the Free Churches of the Anglican Communion have regained that full liberty of meeting and legislating in Synod, which is in accordance with primitive usage and practice.

We have also seen that the Free Churches have recovered the ancient freedom of electing Bishops,

and the primitive right of trying matters of faith, doctrine, and discipline in spiritual tribunals.

But the one chief principle underlying the Constitutions of all the Free Churches which needs careful examination is the feature common to all of them, namely, the restoration of those rights of the laity, which find no place in the present Constitution of the Church of England. The laity sit in Synod, and can withhold their assent to the election of Bishops chosen by the Clergy. Their position as assessors in ecclesiastical trials is not so important as their functions in Synod, and in the election of Bishops, since they may be regarded as councillors whose advice is asked as representing lay opinion, or as viewing the questions at issue from a trained legal standpoint.

To discuss the rights of the laity adequately we must go to the root of the matter.

Under the Old Covenant the Israelites were spoken of as "a kingdom of priests and a holy nation" (Exod. xix. 6). The priesthood of the whole nation found its expression in the Aaronic priesthood. When the visible Church of the Hebrew nation was broadened out into the all embracing Catholic Church of Christ by the coming of the Holy Ghost, the body of the faithful became "a royal priesthood, a holy nation" (I. Pet. ii. 9), in a far more glorious and wider reaching capacity than was possible under

the Old Covenant. The Holy Spirit of Pentecost inspired the whole of the Catholic Church as the Body of Christ and the visible Kingdom of God upon earth. The Threefold Apostolic Ministry, in its orderly succession, gave expression to the universal priesthood of the *cætus fidelium*. But the Apostolic succession is not confined to the Apostolic Ministry. It is the common heritage of the *whole* Church, and the Ministers of the Threefold Ministry are the organs of the Body of Christ. The whole Body cannot dispense with their ministrations, which are as necessary to the expression of its universal priesthood as the use of the hand or of the tongue is to the natural body.

In I. Cor. x. 16, S. Paul uses the phrase "the cup of blessing which *we* bless,—the bread which *we* break." The use of the plural here is not that plural of "majesty" or "dignity," which Monarchs and Bishops make use of in formal documents. It implies the fact that the priest, who consecrates the Holy Eucharist, speaks in the name of the whole Church and represents the universal priesthood of the faithful.

Justin Martyr in the first half of the second century calls the faithful "the genuine high-priestly race of GOD," which explains his description of the Eucharistic office. (προσφέρεται τῷ προεστῶτι τῶν ἀδελφῶν ἄρτος καὶ ποτήριον, Apol. i. 65.) The Bishop,

or priest who celebrates does so as "the President of the brethren," and as representing their priesthood. They unite and assent in his representative action by saying "Amen" to his "Eucharist," or solemn act of worship and thanksgiving.

In the age of General Councils we find that the same doctrine formed part of the common heritage of the Catholic faith. The universal priesthood of the members of the Body of Christ, which Tertullian taught in the words: "Nonne et laici sacerdotes sumus?" (*De Exhort. Cast.* vii., p. 522), was also taught by S. Augustine, S. Jerome, and S. Leo the Great.*

We find that this great doctrine was by no means utterly obscured in the middle ages. It was taught by Hugh of S. Victor and S. Thomas Aquinas, as

* "Sacerdotium quippe hic ipsam plebem dicit, cuius plebis Ille Sacerdos est mediator Dei et hominum Homo Christus Iesus."—S. Aug. *de Civ. Dei*, xvii. 5, 5.

"Sacerdotium vero Iudæorum nemo fere fidelium dubitat figuram fuisse futuri sacerdotii regalis quod est in ecclesiâ, quo consecrantur omnes pertinentes ad Corpus Christi summi et veri Principis sacerdotium."—S. Aug. *Quæst. Evang.* ii. 40, 3.

S. Jerome writes: "sacerdotium laici id est baptisma" (*Adv. Lucifer*, 4). We must remember that Confirmation is reckoned as the necessary completion of Holy Baptism, and that S. Jerome does not intend to exclude the view so clearly expressed by Blunt, that Confirmation may be regarded as the ordination to the Priesthood of the laity. (See Blunt's *Annotated Book of Common Prayer*.—*Notes on the Office for Confirmation*.)

S. Leo the Great has two strong passages. He speaks of the body of the faithful as "the people of the Adoption of God," "cuius universitas sacerdotalis atque regalis est."—(*Serm.* iii. 1.) Again, he says: "In unitate igitur fidei atque baptismatis indiscreta nobis societas et generalis est dignitas, secundum illud beatissimi Petri, Vos autem genus electum, regale sacerdotium."—(*Serm.* iv. 1.)

theologians, as it was by Isidore of Seville, as a liturgical scholar of an earlier date.*

We may consider, then, that the fact is conclusively proved that the laity, as the "Plebs Christiana," possess the Royal Priesthood, which belongs to the whole Church as the Body of Christ. We have now to consider what effect this fact has upon the presence and influence of the laity in the Councils and Synods of the Church.

To begin with, we must ascertain the meaning of the undoubted theological axiom that the *whole* Church, as the Body of Christ, and the home of His abiding presence, can never be in error. We cannot impute this inerrancy to the decrees of General or

* Hugh of S. Victor, a mediæval theologian, lays great stress on the representative character of the Apostolic Ministry. He assigns this fact as the true reason why a heretic or a schismatic could not validly consecrate the Holy Eucharist. He says: "Nullus enim in ipsâ consecratione dicit '*offerô*,' sed '*offerimus*,' ex personâ totius ecclesiæ."—(Summ. Sentent. vi. c. 9.) The priesthood of the *whole* Church cannot be represented by the heretic, who, by his own *wilful choice*, wrests her doctrines away from the due proportion of the Faith, or by the schismatic, who carries forward his doctrinal aberrations into the further stage of formal separation from the unity of the Church.

S. Thomas Aquinas says: "Laicus iustus unitus est Christi unione spiritali per fidem et charitatem, non autem per sacramentalem potestatem: et ideo habet spiritale sacerdotium ad offerendum spirituales hostias."—(Summa Theol. iii. 9; Q. 82.)

Isidore of Seville writes: "Postquam Dominus noster verus Rex et Sacerdos Æternus, a Deo Patre cælesti mystico unguento est delibutus, iam non soli pontifices et reges, sed *omnis Ecclesia* unctione chrismatis consecratur, pro eo quod membrum est Æterni Sacerdotis et Regis. Ergo quia genus regale et sacerdotale sumus, ideo post lavacrum unguimur ut Christi nomine censeamur."—(De Eccl. Off. ii. 25.)

The "chrism" here mentioned may be held to mean the anointing in Confirmation, and the passage thus incidentally supports Blunt's view, which is mentioned in a previous note.

Œcumenical Councils, until those decrees have been accepted by the whole body of the faithful.

A Council of the whole Church does not possess the power to define new articles of faith. This truth is admirably put in a Roman Catholic Catechism by Keenan (published in 1846).

“Can a General Council frame new matter or Articles of faith?”

“No : a General Council can only explain what has been already revealed, it belongs to God only to reveal new Articles of faith.”

We presume that this Catechism has been carefully revised, and this passage expurgated since the Vatican Council of 1870, but it is worth quoting for its clearness of expression.

The General Councils of the Church have fulfilled the function of “machinery for registering the agreement of the Churches.”

We find Vincent of Lerins, in his account of the Council of Ephesus (A.D. 431), recording how the Bishops of Greece and the East first gave their testimonies as to what had always been believed with regard to the doctrine of the Incarnation. Then came the testimonies of Western Fathers from Rome, from Africa, and from Milan. The object of the Council was to gather together the consentient witness of the whole body of the faithful. The after acceptance of the Decrees of the Council by the Church, as a whole,

caused them to be regarded as a faithful and unerring embodiment of the teaching of the Church Catholic, or, in other words, of the *quod semper, quod ubique, quod ab omnibus* of undivided Christendom.*

It is very evident that the assent of the laity, as the "Plebs Christiana," however it may have been expressed, formed a distinct part of that general acceptance by the whole "Catholic body of the Church," which gave full authority to the decisions of General Councils.

We now come to a more definite issue. We must briefly examine the historical evidence concerning the position of the laity in the Primitive Church.

At the Council of Jerusalem we find that *the Apostles and Elders came together for to consider of this matter*

* In his controversy with Fisher the Jesuit, Archbishop Laud, after examining certain passages of Scripture alleged in favour of the inherent infallibility of General Councils, sums up as follows: "For suppose these places, or any other, did promise assistance, even to infallibility, yet they granted it not to every General Council, *but to the Catholic body of the Church itself*; and if it be in the whole Church principally, then is it in a General Council but *by consequence*, as the Council represents the whole."—(*Conference with Fisher*, Sec. xxxiii., p. 266.)

We may also cite a modern controversialist against Roman claims, who writes to the same effect:

"Three points need to be remembered—

"(i.) That what was finally authoritative was not the mere Council, but the Decree of the Council, when the Bishops had separated and their decision had obtained general acceptance.

"(ii.) That the Councils simply professed to register and enforce the traditions of the Churches, leaving argument to the theologians.

"(iii.) That our justification in accepting the decisions of the Councils lies in the verification of their results taken together. It is most reassuring to find that they represent, *not the tyranny of chance majorities*, but the gradual working out into a balanced formula of the complex Scriptural truth of the Incarnation, guarding it from being overbalanced on one side or the other. The mind of the Spirit is apparent in the result."—(Gore, *Roman Catholic Claims*, p. 41.)

(Acts xv. 6). The Epistle conveying the decisions of the Council is in the name of "the Apostles, Elders, and brethren" (οἱ ἀπόστολοι καὶ οἱ πρεσβύτεροι καὶ οἱ ἀδελφοί.—Acts xv. 23). The reading καὶ οἱ before the word ἀδελφοί is disputed, although the balance of theological probability in accordance with the previous argument would lead us to accept it.*

But although there is some uncertainty about the reading, it is quite impossible to build up an argument from it against the position of the laity as assenting parties to the decisions of the Council. At all events, the resolution to send the letter came from "the Apostles and Elders with the whole Church."†

When Tertullian writes of Church Councils, at the end of the second century, he makes use of the remark-

* The reading καὶ οἱ is retained by Bishop Wordsworth. Tischendorf, in his seventh edition, adopts it, thus following E. G. H. and the majority of cursive MSS. It is omitted in the uncial codices A.B.C, in the Codex Sinaiticus, and also by Alford, and the Revisers' Greek Text of 1882. The corrector of the Codex Sinaiticus marked C puts in the reading καὶ οἱ, and Scrivener observes "that one object of this corrector was to assimilate the Codex to MSS. more in vogue at his time." It is extremely unlikely that the influence of Church feeling at the probable date of this correction would lead the corrector to put in the words καὶ οἱ in the interests of the laity. The tendency of things was all the other way, and it is difficult to imagine such a reading being introduced for the first time in the fifth or sixth century, when the Clergy had begun to encroach upon the rights of the laity. It is, therefore, more probable that the corrector may have had before him an uncial MS. with which we are not acquainted.

† S. Chrysostom notes that the decision was not arrived at in a tyrannical way, but with the common consent of all.

"ὥστε δεῖξαι, ὅτι οὐ τυραννικῶς, ὅτι πᾶσι τοῦτο ἔδοκεῖ, ὅτι μετὰ ἐπισκέψεως τὰτα γράφουσιν."

—(*In Acta Apost.*, Hom. xxxiii., Vol. ix., p. 254.)

able phrase, that a Council is "the representation of the whole Christian name." The same writer has said, "But the Church exists where three are together, even though they be laymen." It is not likely that the author of this last maxim would intend to exclude the laity from the conciliar "representation of the whole Christian name." *

The writings of S. Cyprian (A.D. 255) shew that the inherent rights of the laity were acknowledged by him in the fullest possible way. The great Primate of North Africa was a man of great gifts and powers. He withstood the Bishop of Rome, he ruled his Province with the firm hand of a strong man, and it is the fashion in some quarters to credit him with distinct hierarchical tendencies. But the leading feature of S. Cyprian's policy is best expressed in his own words. Writing to his Clergy he declines to settle a point in dispute, "since I have resolved from the beginning of my Episcopate to do nothing of my own private opinion without your counsel and without the consent of the laity." †

* Tertullian's exact words are :—

"Aguntur præterea per Græcias illa certis in locis concilia ex universis ecclesiis, per quæ et altiora quæque in commune tractantur, et ipsa representatio totius nominis Christiani magnâ veneratione celebratur."
—(*De Jejun.* xiii., p. 552.)

"Sed ubi tres, Ecclesia est, licet laici."—(*De Exhort. Cast.*, vii., p. 552.)

† "Solutus rescribere nihil potui; quando a primordio Episcopatus mei statuerim nihil sine consilio vestro, et sine consensu plebis, meâ privatim sententiâ gerere."—(*S. Cypr. Ep.* xiv.)

In replying to this letter, which dealt with the important question of the restoration of the lapsed, the Roman Clergy write as follows:—

S. Cyprian carried out his views in practice. As Primate he summoned a Provincial Council at Carthage. The Bishops of his Province attended and formed the Upper House. The Lower House was composed of Priests and Deacons, and the laity were also invited to attend. The official record of this Council begins as follows: "Very many Bishops having assembled at Carthage on the Kalends of September from the Province of Africa, Numidia, Mauritania, with the Priests and Deacons, a very great part of the lay people being also present."

In A.D. 305 the Council of Eliberis was held, and it is recorded that when the Bishops and Presbyters had taken their seats, "while the Deacons and all the people stood by, the Bishop spoke."*

"Quamquam nobis in tam ingenti negotio placeat, quod et tu ipse tractasti prius: Ecclesiæ pacem sustinendam: deinde, sic collatione consiliorum cum Episcopis, Presbyteris, Diaconis, Confessoribus, *pariter ac stantibus laicis facta*, lapsorum tractare rationem."—(Ep. xxx. *Cypriano Papæ Presbyteri et Diaconi Romæ consistentes.*)

* With regard to the presence of Deacons it may be noted that they had the privilege of speaking, as Athanasius did at the Nicene Council, without voting. The South African Church allows one Deacon to sit in the Provincial Synod, elected by the Deacons of the Province, but in the Diocesan Synods the Deacons speak but do not vote. We may add to the authorities previously adduced, with regard to the jurisdiction of Councils and Synods, the following summary of the great Canonist, Van Espen:—

"It is unquestionable that Synods, not only Œcumenical or General, but also National, or Provincial, or Diocesan, possess the authority of establishing those things which they judge to be for the benefit of the Church or people; and their regulations and decrees (*ordinationes et statuta*) have the force of laws throughout the district which belongs to the Synod, National, Provincial, or Diocesan."—Van Espen, *De Synodis Tractatus*, Pars ix., Vol. ii., p. 181.)

We are not surprised to find that the decay of civil liberty, and the setting up of military despotisms, reacted upon the Church. The gradual progress of the Papal despotism diminished the canonical rights of the Bishops and Clergy, and it was not to be expected that the ancient canonical rights of the laity should survive. But although the laity gradually lost their rights we still find occasional traces of survival. We have already noted that the laity had their place in Anglo-Saxon Councils, and we find provision made for the presence of elected laity in the Councils of the Spanish Church.*

The authority of the Papacy had become weakened during the great schism of the middle ages. Therefore we are not surprised to find that, at the great reforming Councils of Pisa and Constance, lay canonists and others not in Holy Orders were admitted to their due share in consultation. The Papal party did not permit this course to be adopted without strenuous resistance, but they were overborne by the arguments of John Gerson, Chancellor of the

* Isidore Mercator gives the order of celebrating a Council taken from the fourth Council of Toledo :

“After the entrance and seating of all the Bishops, those Presbyters are called *quos causa probaverit introire*. (This evidently means the Presbyters elected for the purpose.) After these enter such approved Deacons as the regulation permits to be present. *Deinde ingrediantur et Laici qui electione concilio interesse meruerint*.”—(Mansi, *Concilia*, Tome i., p. 10.)

University of Paris, and Peter d'Ailly, the Cardinal of Cambray.*

We have now sufficiently established the fact that the laity have their due place in the Synods and organisation of the Catholic Church.

We have further to shew that the Free Churches of the Anglican Communion have adhered to primitive usage in the position they have assigned to the laity in their Constitutions and Canon law.

First of all it must be noted that none of these Constitutions permit the laity to have a decisive and determining Synodical vote in matters of faith and doctrine, or allow them an unchecked initiative, or final voice, in the election of a Bishop, which, by the fourth Canon of Nicæa, belongs to the Metropolitan and Bishops of the Province, sitting as a Court, to

* Gerson's *Opus de modis uniendi ac reformandi Ecclesiam in Concilio Universali* contains the following strong testimony to the fact that Church authority belongs to the Church *as a whole*, and not to the Pope and Bishops alone :—

“*Catholica Universalis Ecclesia ex variis membris unum corpus constituentibus est coniuncta et nominata. Cuius corporis, Universalis Ecclesiæ, caput Christus solus est. Et in hac Ecclesiâ, et in eius fide omnis homo potest salvari etiamsi in toto mundo aliquis Papa non posset reperiri. Hæc Ecclesia de lege currenti nunquam errare potuit, nunquam falli aut fallere potuit. Alia vero vocatur Ecclesia Apostolica particularis et privata, in Catholicâ Ecclesiâ inclusa, ex Papâ, Cardinalibus, Episcopis Prælati et viris ecclesiasticis compaginata. Et hæc errare potest, et potuit falli et fallere. Et hæc longe minoris auctoritatis videtur esse universali Ecclesiâ; et est quasi instrumentalis et operativa clavium universalis Ecclesiæ, et executiva potestatis ligandi et solvendi eiusdem.*”—(Gieseler, p. 286.)

Gerson's use of the word *instrumentalis* shews that he grasped the truth that the Apostolic Ministry form the “organs” of the Body of Christ.

confirm the election of the Bishop who has been chosen by the Clergy with the assent of the laity.

If we turn back once more to the General Council of Jerusalem, we find that the decrees were said to be decided by the Apostles and Elders (τὰ κεκριμένα ὑπὸ τῶν ἀποστόλων καὶ πρεσβυτέρων.—Acts xvi. 4). The brethren do not appear to have had an authoritative voice, but a consultative one only. The laity do not *define* doctrinal decisions, but they have the right of assenting, or refusing assent, to the definitions of faith and doctrine framed by the Bishops in consultation with the Clergy.*

The practical working out of these principles in the

* The following authorities may be quoted :—

Archbishop Cranmer.—"In all the ancient Councils of the Church, in matters of faith and interpretation of Scripture, no man made definite subscription but Bishops and Priests, forso much as the declaration of the Word of God pertaineth to them." (Burnet, *Reformation*, Vol. I., p. 353.)

Bishop Beveridge.—"Laici ad iudicium de doctrinâ aut disciplinâ Ecclesiasticâ ferendum nunquam admissi sunt." (*Codex Canonum vindicatus*.)

The word "iudicium," as applied by Bishop Beveridge, does not preclude the right of expressing assent or dissent, but is intended to preclude the power of *defining* doctrine, or passing ecclesiastical sentences. This is made plainer by what Dr. Field (one of the Divines of the Laudian period) has written on Synods :

"The persons that may be present are of divers sorts; for some there are with authority to *teach, define, prescribe*, and to *direct*. Others are there to hear, set forward, and consent unto that which is there done. In the former sort, none but only Ministers of the Word and Sacraments are present in Councils, and they only have deciding and defining voices, but in the latter sort laymen also may be present, whereupon we shall find that Bishops and Presbyters subscribe in this sort: *Ego, N., definiens subscripsi*; but the Emperor or any other lay person: *Ego, N., consentiens subscripsi*." (*Field on the Church*, chap. xlix., p. 646.)

Free Churches of the Anglican Communion preserves the Catholic and Primitive rights of the laity, and their heritage in the Universal Priesthood of the Church.

In dealing with the General and Provincial Synods of the Anglican Communion, we must remember that the Bishops, Clergy, and laity who compose them conduct their deliberations upon a fixed and authoritative basis. The Constitutions of each Church and Province supply this basis in their prefatory Declarations of fundamental principles. All the Free Churches of the Anglican Communion are firmly based upon the historical Christianity of the Mother Church, and rest upon the authority of the Creeds, and undisputed General Councils of Christendom. The property possessed by the Free Churches is legally held upon the terms of the Constitution, and for the purposes which it implies. The legal possession of this property would be open to dispute if any fundamental changes in the Constitution were permitted.

We may, therefore, conclude that the General and Provincial Synods of the Anglican Communion are precluded, by the Constitutions under which they are summoned, from entertaining any propositions which would involve doctrinal divergence from the faith of the Catholic Church.

But it may be said that questions may, from time to time, arise which will involve the discussion of principles involving the faith and doctrine of the

Church. The debate on the third Proviso in the South African Provincial Synod of 1883 is a case in point. It may then be asked how are the constituent factors of the General and Provincial Synods to be ordered so as to maintain the equipoise between the rights of the Bishops and Clergy and the rights of the laity? The question is not difficult to answer. The three Houses of Bishops, Clergy, and laity form a true balance of ecclesiastical power. The House of Bishops has an absolute *Veto* upon the decisions of the Clergy and laity, therefore the ultimate responsibility of final decision rests with the Episcopate in accordance with primitive usage. But, just as the Bishops of Christendom had to consult the Clergy and to await the assent of the "Plebs Christiana" to the decisions of General Councils, so the House of Bishops cannot *impose* its will upon the Houses of the Clergy and laity. If the House of Bishops initiates a measure, the other two Houses can refuse their assent, and thus the true Catholic balance of power is preserved and secured. The position of the laity with regard to the election of Bishops, which is universally adopted by the Free Churches of the Anglican Communion, can readily be proved to be in consonance with the principles of ancient Canon law and the practice of the Catholic Church. Writing of the election and nomination of Bishops, Van Espen cites many

authorities, and amongst them a remarkable passage which states that the laity ought to be present, because the Bishop, to whom all owe obedience, ought to be chosen by all.

The ecclesiastical historian Socrates states that S. Chrysostom was chosen Patriarch of Constantinople by the common vote of all, both Clergy and laity. If we turn from Constantinople to Antioch we shall find Theodoret describing the election of Eustathius to that See by the common vote of the Bishops, Clergy, and laity. In A.D. 326 S. Athanasius was elected Patriarch of Alexandria by the majority of the Bishops, in accordance with the expressed desire of the laity. We have now traced the voice of the laity in Episcopal elections in the three great Patriarchates of Constantinople, Antioch, and Alexandria. The great Western Patriarchate of Rome bore the same witness before the development of the Papal despotism. S. Leo the Great stated that the assent of the laity was needful to an Episcopal election, and he repeated the maxim of S. Cælestin, one of his most distinguished predecessors in the See of Rome, that no Bishop was to be given to those unwilling to receive him.

The principle that a Bishop should be elected by the Clergy, with the assent of the laity, and that his election should be confirmed by the Metropolitan and Bishops of his Province, was acted upon through-

out the four great Patriarchates of the undivided Catholic Church.*

The admission of the laity to their rightful privileges has been urged in the following forcible words by the late Bishop of Salisbury :—

“ I venture to think that the Erastianism which

* We cite the following authorities :—

“ Sed et Laici nobiles et cives adesse debebunt ; quoniam ab omnibus debet eligi, cui debet ab omnibus obediri.”—Van Espen, *de Elect. Episc.*, Part I., 13.

(a.) *Constantinople*.—S. Chrysostom was chosen *ψηφίσματι κοινῷ ὁμοῦ πάντων κληροῖ τε καὶ λαοῦ*.—Socrates, Book VI., c. 2.

(b.) *Antioch*.—*ψηφῶ κοινῇ κατηνάρκασαν ἀρχιερεῖς τε καὶ ιερεῖς καὶ ἅπας ὁ λαὸς*.—Theodoret.

(c.) *Alexandria, and North Africa*.—The voice of the people in demanding the election of S. Athanasius is attested in a Synodal letter by the Egyptian Bishops, which is cited by S. Athanasius in his Apology against Arius (sec. 6).

S. Cyprian gives the following testimony :—“ Factus est Cornelius episcopus de clericorum pene omnium testimonio, de plebis quæ tum adfuit suffragio.”—(Ep. 52 Ant.)

S. Augustine, the most illustrious Bishop of North Africa, held the same view : “ In ordinandis sacerdotibus et clericis *consensum majorum Christianorum* et consuetudinem ecclesiæ sequendum esse arbitrabatur.”—(Possid. Vit. Aug., c. 21.)

(d.) *Rome*.—S. Cælestin writes : “ Nullus invitis detur Episcopus. Cleri, Plebis et ordinis consensus et desiderium requiratur.”—(Ep. ii., c. 5.)

S. Leo writes : “ Cum de summi sacerdotis electione tractabitur, ille omnibus præponatur, quem cleri *plebisque* consensus concorditer postularit ; ita ut si in aliam forte personam partium se vota dividerint, metropolitani judicio is alteri præferatur, qui majoribus et studiis juvatur et meritis : tantum ut nullus invitis et non petentibus ordinetur, ne plebs invita Episcopum non optatum aut contemnat aut oderit.”—(Ep. 84 ad Anastas, c. 15.)

We have not forgotten the Patriarchal rank accorded to Jerusalem by the seventh Canon of Nicæa.

But since that very Canon subordinated the See of Jerusalem to the Metropolitan See of Cæsarea, and since S. Cyril of Jerusalem was driven into exile in A.D. 358 for declining to acknowledge the Metropolitan authority of Acacius of Cæsarea, it seems better to group the Church of the fifth and sixth centuries into four Patriarchates instead of five.

exists in the Church of England, and the fettered condition of the Clergy under the control of a lay Parliament, [not necessarily even Christian, is but a natural reaction from the loss of a primitive principle, which would, if it had been duly developed according to the necessities of the Church, and the greatly increased fitness of many of the lay people, by education, learning, piety, and practice of life and business to partake in its consultations, have contributed to give an immense increase of strength and freeness of union and power to all its movements and have placed it in a position much more in accordance with its true spiritual constitution.

“ The present age, and the circumstances of the Church of England, appear to me to make it of singular importance, and at the same time to offer a singularly favourable opportunity, to develop these principles anew in practice. A colonial diocese of the Church of England seems to afford a state of things rarely occurring among us at least for many ages past, in which it is not only possible to act out these principles in their integrity, but also in which it is nearly impossible without them to hope for any permanent or widely extended effects upon colonial populations. Here at home, surrounded as we are as by a multitude of conditions, the result of centuries of political and ecclesiastical action of every various kind, hampered by difficulties too many and too

intricate to allow any considerable hope of setting things upon a primitive basis, a Bishop, supported on the one hand by secular law, and interfered with on the other much more than he is supported by it, works, as it were, in chains, and must be content to confine himself to such personal labours, excessive indeed from the magnitude of dioceses, as the system which we have inherited from former ages allows him. But there is no reason why a colonial bishop, freed as he has been by recent judicial decisions from the embarrassments of his brethren at home, should not be as Cyprian, should not speak as Cyprian, should not act as Cyprian" (*The Administration of the Holy Spirit*, Lect. IV., pp. 117 and 120).

We have now shewn that the position of the laity in the Free Churches of the Anglican Communion is in accordance with the ancient laws and usages of the Primitive Church.

We have already traced the general outline of the Diocesan and Appellate Courts of the Catholic Church, and shewn how the authority of the Bishop, as *Judex Ordinarius*, is tempered by the appeal permitted in the fifth Nicene Canon, and aided by the assessorship which Van Espen traces to the fourth Council of Carthage (A.D. 398). (*Ut Episcopus nullius causam audiat absque præsentiâ suorum clericorum.*)

This system is followed as closely as possible by the Free Churches of the Anglican Communion, and it is

unnecessary to enter into the variations in detail, which are produced by local circumstances, when the general principles of Catholic jurisprudence are faithfully maintained.

There is one point of great importance which needs a word of comment and explanation. The Canons of the Church of Ireland and of the Church of the West Indies contain a carefully guarded appeal against the Episcopal Veto upon the acts of a Diocesan Synod. It is true that the Bishop represents his Order when presiding over the Clergy and laity in a Diocesan Synod. His vote upon a measure passed by the Clergy and laity is to be regarded as the vote of a member of the House of Bishops, and not merely as the vote of a Chairman or President.

But the Bishop cannot claim to represent the *absolute veto* of the House of Bishops, *as a whole*, when he negatives the decision of the Clergy and laity of his Diocesan Synod. He is a constitutional ruler, and not an ecclesiastical despot. The fifth Nicene Canon provides for an appeal against a Bishop's decision as Ordinary. An appeal against the Bishop's decision, when presiding over the Synod of his Diocese, is equally in accordance with primitive precedent, because in this case his *veto* is merely *suspensory*, as the decision of *one* of the House of Bishops, and can in no sense be the *absolute veto*, which is exercised by the Primate or Metropolitan and the House of Bishops, acting *corporately*.

CHAPTER VII.

THE PRESENT RELATIONS OF THE FREE CHURCHES OF THE ANGLICAN COMMUNION WITH THE CIVIL POWER.

BEFORE considering the present relations of the American, Irish, and Scottish Churches to the Civil Power, it will be necessary briefly to trace the legal process whereby the Colonial Churches obtained their freedom from a fictitious legal identity with the Established Church of England, which was derived from the fact that the Colonial Bishops were originally appointed by Royal Letters Patent, in accordance with the usurped regal power, claimed in the reign of King Edward VI. This assumption of Royal authority, which was afterwards adjudged to be *ultra vires* and illegal by the highest Court of the realm, fettered the infant Churches of the Colonies by imposing upon them all the disabilities and restrictions of the Church of England, as by law established, without any of its corresponding privileges. As we have noted previously, the consecration of Bishop Inglis, the first Colonial Bishop, took place under Royal Letters Patent in 1787.

Other Dioceses were gradually formed and Bishops were consecrated for them in the same way.

In 1841 the Colonial Bishoprics Council was founded, and a great impulse was thereby given to the extension of the Colonial Episcopate.

All honour is due to the zeal and enthusiasm of the good men who guided this undertaking.

The Oxford Revival of 1833 had quickened the energies and powers of the Church of England, and this great movement for increasing the Colonial Episcopate was one of its most fruitful manifestations. But the leaders of the Oxford Revival at that date were men steeped in the Church and State principles of the Caroline Divines. Such a book as "Palmer on the Church," shews most ingenious special pleading in defence of the Royal Supremacy as exercised at the Reformation period.

The Oxford Divines were, as a body, committed to a political hostility to the principles underlying the Reform Bill of 1832. They defended the Establishment as it stood, and were unable to see that it was unfair to impose Church rates upon Dissenters. They endeavoured to minimise and explain away the anomalies of the existing connection between Church and State in England, instead of setting themselves to reform them. They endeavoured to harmonise their own lofty ideal of the Church of England, as the purest representative of historical Christianity, with

a Parliamentary exercise of the Royal Supremacy, and when the "Jerusalem Bishopric Act" shewed the Erastian tendencies of the alliance between Church and State some of them despaired of the Church and sought refuge in the cowardice of secession to the Church of Rome. Amongst their number was Mr. Palmer, the author of the treatise on the Church before mentioned. It was not, therefore, to be supposed that the Colonial Bishoprics Council should at that date have been able to realise the idea of Colonial Churches developing their organisation on Catholic and Primitive lines in absolute freedom from State control. They had no clear ideas with regard to the Provincial system, and did not dream of the possibility of the revival of the Canon law of the undivided Church in the newly founded Colonial Dioceses.

Their ideal, so far as they had one, seemed to be limited to the establishment of single Dioceses all over the Empire, whose Bishops should be extra-Provincial Suffragans of the Archbishop of Canterbury, exercising coercive jurisdiction by Royal Letters Patent, whose effect would be to carry with them to the Colonies the whole weight and burden of the Royal Supremacy.

After a few years the grouping of Colonial Dioceses under Metropolitans was adopted. The Bishop of Calcutta had been made Metropolitan of India, by Letters Patent, when the Sees of Bombay and

Madras were founded. Bishop Broughton became Metropolitan of New South Wales, and in 1853 the Diocese of Capetown was subdivided by the formation of the Sees of Grahamstown and Natal. Bishop Armstrong was consecrated as first Bishop of Grahamstown, and Bishop Colenso, first Bishop of Natal. Both Bishops were consecrated under Letters Patent, and Bishop Gray resigned his original Letters Patent as Bishop of Capetown, and accepted fresh Letters Patent as Metropolitan.

These Letters Patent were historical as the sequel will prove.

The first shock to the theory that the Letters Patent of a Colonial Bishop enabled him to carry with him to the Colonies the disabilities and privileges of the English Establishment was administered by the Court of Queen's Bench, in the famous case *Regina v. Eton College*, in the year 1857.

When the Crown nominates a Parish Priest to a Bishopric and his Incumbency thereby becomes vacant, the Crown claims the right of filling up the vacancy by its own nominee. In 1856 Mr. Harper, who held a living of which Eton College was patron, became Bishop of Christchurch, New Zealand, under Royal Letters Patent. The Crown immediately claimed to fill up the vacant living, just as if Mr. Harper had been appointed to a See in England. Eton College resisted the claim of the Crown, and

pleaded that the Diocese of Christchurch did not belong to the Church of England "as by law established," and that since a Bishop in New Zealand was not in the same legal position as a Bishop of the Church of England, the Crown had no right to claim the patronage of the living Mr. Harper had vacated. Lord Campbell gave judgment in favour of Eton College, and thus laid down, by implication, the important legal position that the Church of England, *as an Established Church*, has no legal existence out of England. English Churchmen in the Colonies are the inheritors of all the laws and usages of the Church of England which belong to her as a living branch of the Catholic Church. But they have no legal part or lot in either the privileges or the disabilities which belong to the Mother Church, as an Establishment.

This judgment also destroyed the idea that the Letters Patent of a Colonial Bishop placed him in the same legal position as a Bishop of the Church of England, and paved the way for the ultimate abolition of the Letters Patent of Colonial Bishops as null and void.

The next decision of importance was the judgment of the Privy Council, delivered by Lord Kingsdown on June 24th, 1863, in the case of *Long v. The Bishop of Capetown*.

Mr. Long, a Clergyman in the Diocese of Cape-

town, contumaciously refused to obey the injunction of his Bishop requiring him to give notice in Church of the meeting of the Diocesan Synod.

The whole principle of the lawfulness and validity of the Synodical government of the Church in South Africa was at stake, and Mr. Long's refusal was based upon his idea that the Royal Supremacy hindered Synodical government in South Africa just as it did in England. The Privy Council decided against the Bishop, on the ground that Mr. Long (having been ordained and licensed in South Africa before the foundation of the Diocese of Capetown in 1847) had not contracted to obey his Bishop in the matter of Synodical government. But the Privy Council laid down some most vital and important positions with regard to the legal status of Bishops, Clergy, and laity in the Colonies, which virtually secured the freedom of the Colonial Churches. The Privy Council had evidently carefully considered the bearings of the judgment in the case *Regina v. Eton College*. We quote the exact words of this portion of Lord Kingsdown's judgment :—

“The Church of England, in places where there is no Church established by law, is in the same situation with any other religious body, in no better, but in no worse position, and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body, which will

be binding on those who expressly, or by implication, have assented to them. It may be further laid down where any religious, or other lawful association, has not only agreed on the terms of its union, but has also constituted a tribunal to determine whether the rules of the association have been violated by any of its members or not, and what shall be the consequence of such violation, the decision of such tribunal shall be binding, when it has acted within the scope of its authority, has observed such forms as the rules require, if any forms be prescribed, and, if not, has proceeded in a manner consonant with the principles of justice. In such case the tribunals so constituted are not in any sense Courts ; they derive no authority from the Crown ; they have no power of their own to enforce their sentences ; they must apply for that purpose to the Courts established by law, and such Courts will give effect to their decision, as they give effect to the decisions of arbitrators, whose jurisdiction rests entirely upon the agreement of the parties " (Phillimore, *Eccl. Law*, Vol. II., p. 1,245).

We notice in the first place the fact that the Letters Patent of a Colonial Bishop did not bring into a colony the legal establishment of the Church of England. In the next place, the position of Churchmen in the Colonies is defined as being the same as it is in America, where all religions are equal before the law. In the third place, it is laid down that

Churchmen are "in no worse position" than Wesleyans or Presbyterians, and that they can organise themselves "as a voluntary religious body," as the American Church has done. They can convene Synods, pass Canons, and adopt "rules for enforcing discipline, which will be binding on those who expressly or by implication have assented to them." They can establish ecclesiastical tribunals, and "the decision of such tribunal shall be binding when it has acted within the scope of its authority," and acted in accordance "with the *rules of the association*" (by which is meant the Canons of the Diocese and Province), and "proceeded in a manner consonant with the principles of justice." These Ecclesiastical Courts "are not in any sense Courts" of the *Crown* with coercive jurisdiction, "they have no power of their own to enforce their sentences." The "Courts of the Crown" will act according to the true ideal of Church and State as expressed in the case of Paulus of Samosata. They will give coercive effect to the decisions of the Church Courts "as they give effect to the decisions of arbitrators, whose jurisdiction rests entirely upon the agreement of the parties."

This judgment must have prepared the minds of thoughtful Churchmen for the Privy Council decision, "*In re the Bishop of Natal*," 1865.

Dr. Colenso, having been condemned for a denial of the Catholic doctrines of the *Atonement* and

Justification by Faith, in his work on the Epistle to the Romans, as well as for errors in connection with his book on the Pentateuch, in the Court of his Metropolitan was lawfully and canonically deposed from his See by the sentence of the Court, on April 16th, 1864. Although Dr. Colenso had taken the oath of canonical obedience to Bishop Gray as his Metropolitan, he declined to submit to the sentence of the Court, and appealed to the Civil Court. The Privy Council gave judgment on March 20th, 1865, to the effect that the sentence upon Dr. Colenso in the Metropolitan's Court was *civilly* null and void, although they did not venture to suggest that it was not morally and ecclesiastically binding. The Metropolitan's sentence could appeal to the conscience of Dr. Colenso, but it could not touch his income as Bishop of Natal. The Privy Council decided that "in a settled colony the ecclesiastical law of England cannot be treated as part of the law which the settlers carried with them from the Mother country."

By these words the Privy Council meant to convey the obvious truth that the laws of the Church of England (*quâ* Establishment) have no more valid force in the Colonies than they have in Scotland. They did not mean to imply that the Colonial Churches had not inherited the Canon law of Catholic Christendom (with the limitations previously laid down) from the Mother Church. This is plain from

their further deduction that "No Metropolitan or Bishop in any Colony having legislative institutions, can, by virtue of the Crown's Letters Patent alone, exercise any coercive jurisdiction, or hold any Court or tribunal for that purpose. The Crown had no power to confer any jurisdiction or coercive legal authority upon the Metropolitan over the Suffragan Bishops or over any other person." This legal decision had the following effect : as Metropolitan by the Royal Letters Patent of 1853, Bishop Gray had no coercive jurisdiction over Dr. Colenso. On this account Dr. Colenso's oath of canonical obedience to Bishop Gray was not binding upon him *as a matter of civil law*, only *in foro conscientiæ*. There was no voluntary contract between Dr. Colenso and his Metropolitan, as officers of "a voluntary religious body," and therefore the sentence of the Metropolitan against Dr. Colenso could not be enforced civilly by "civil coercive jurisdiction," like "the decisions of arbitrators."

The immediate result of this decision was that the South African Bishops resigned their Letters Patent and entered into a voluntary compact with the Metropolitan, which eventually resulted in the framing and promulgation of the Constitution and Canons of the Church of the Province of South Africa in 1870.

The Bishops of New Zealand took the same step

in 1865. The wording of their petition to the Crown is significant and worth quoting. "They humbly pray that all doubts may be removed from their status, both ecclesiastical and temporal.

"(i.) By the acceptance of the surrender of their Letters Patent, now declared to be null and void.

"(ii.) By declaring the Royal Mandate, under which they were consecrated, to be merely an authority given by the Crown for the act of Consecration, and to have no further effect or legal consequence.

"(iii.) By recognising *the inherent right* of the Bishops of New Zealand to fill up vacancies in their own order by the Consecration of persons elected in conformity with the regulations of the General Synod, without Letters Patent, and without Royal Mandate, in the same manner as they have already consecrated a Missionary Bishop for the islands in the Western Pacific."

This document was signed by Bishop Selwyn, then Primate of New Zealand, the great pioneer and founder of the Church in that Colony, and also by his Suffragans the Bishops of Wellington, Nelson, Christchurch, and Waiapu.

The State authorities in England issued no more Letters Patent to Colonial Bishops. Thenceforward the Colonial Churches were free.

We must now return to the consideration of the American, Irish, and Scottish Churches.

The freedom of the American Church may be best dated from the General Convention of 1789, when the Bishops, consecrated in England, united under Bishop Seabury, as presiding Bishop, and settled the Church upon its present basis.

The Irish Church obtained its freedom by its disestablishment in 1870, and the Scottish Church when its Bishops declined to swear allegiance to William of Orange, after the Revolution of 1688, although the freedom it obtained resembled the freedom of the Church of the first three centuries, inasmuch as it was accompanied by civil disabilities and persecution.

We have now to consider the relation of the Free Churches of the Anglican Communion to the Civil Power. Broadly speaking it may be defined in the terms of the above-quoted judgment of the Privy Council in the case of Mr. Long.

The Clergy enter into a voluntary contract to obey the sentences of the Ecclesiastical Courts of the Church to which they belong. The method of expressing this contract may vary in the different Churches, although its legal force is the same. We select the following Declarations as good illustrations of the contract referred to. In the American Church, Art. 7 of the Constitution provides the following Declaration of Assent: "I do believe the Holy Scripture of the Old and New Testament to be the Word of God, and to contain all things necessary to salva-

tion, and I do solemnly engage to conform to the Doctrines and Worship of the Protestant Episcopal Church in the United States." In the Irish Church all Clergy who are ordained, licensed to Curacies, or instituted to Benefices, have to subscribe to a Declaration containing the five following points :— (i.) Assent and agreement to the Constitution of the Church of Ireland ; (ii.) Assent to the XXXIX. Articles and the Prayer Book ; (iii.) A Declaration against Simony ; (iv.) A Declaration of Canonical Obedience to the Bishop ; (v.) " I promise to submit myself to the authority of the Church of Ireland, and to the laws and tribunals thereof."

The Scottish Church uses the following form :—

" I —, do hereby solemnly promise that I will give all due obedience to the Canons of the Episcopal Church in Scotland, and to the decisions and judgments of the tribunals of the said Church, and I, in like manner, promise that I will pay due and canonical obedience to the Right Reverend the Bishop of —, and that I will shew in all things an earnest desire to promote the Peace, Unity, and Order of the said Church, and will render due obedience to the decisions of the ecclesiastical authorities in all questions falling under their spiritual jurisdiction."

Clergy who are ordained licensed, or instituted to a Benefice in the Church of New Zealand sign the following Declaration :—

"I, A. B., do declare my submission to the authority of the General Synod of the Branch of the United Church of England and Ireland in New Zealand, established by a Constitution agreed to on the 13th day of June, 1857, and to all the provisions of the Constitution. And I further consent to be bound by all the regulations which may from time to time be issued by the authority of the said General Synod, or by any person or persons lawfully acting under the authority of the General Synod in that behalf."

The South African Church has a similar Declaration.

"I, A. B., do declare that I consent to be bound by all the Laws of the Church of the Province of South Africa, and by the Rules and Regulations which have heretofore been made, or which may from time to time be made by the Diocesan Synod of the Diocese of ———, and by the Provincial Synod of the Province of South Africa. And I hereby undertake to accept and immediately submit to any sentence depriving me of any or all the rights or emoluments appertaining to the office of ——— which may at any time be passed upon me, after due examination had, by any Tribunal acknowledged by the Provincial Synod of the said Province for the trial of a Clergyman. Saving all rights of Appeal allowed by the said Provincial Synod."

The Civil Power will enforce these contracts in the event of a Clergyman resisting the sentence of a

Church Court, and attempting to retain possession of Church property or emoluments which he holds upon the conditions of his declaration of office.

In New Zealand there is a very simple method of attaching coercive jurisdiction to ecclesiastical sentences. By Canon I., sec. 5 (of Discipline), "Any judgment not appealed from, and any judgment pronounced by the Court of Appeal in pursuance of this Canon, shall be, and have the same force as an award made in any reference to arbitration by consent of the parties, and may be made a rule of her Majesty's Supreme Court of New Zealand."

But it may be necessary to adduce further evidence with regard to the principles guiding the enforcement of the sentences of the Ecclesiastical Courts of the Free Churches of the Anglican Communion by the Civil Power. Hoffman, who is considered to be the best American Canonist, has laid down the principles governing the Civil Power in such cases as follows:—"The general rule in our own country may be stated thus: That sentences or judgments of a domestic or foreign tribunal are conclusive upon the point decided, unless they can be impeached for fraud in obtaining them; for the want of jurisdiction in the Court which pronounced them; or want of due notice to the party" ("Hoffman on the Law of the Church," p. 474).

The doctrine of the American jurist is paralleled by

the judgment of the House of Lords in the case of *Forbes v. Eden*. Mr. Forbes, a Clergyman of the Scottish Episcopal Church, declared that his conscience would not permit him to obey certain Canons of the Scottish Church, and he applied to the Civil Courts to stay the sentence of deprivation which had been pronounced on him for his disobedience.

The House of Lords held that as he was a Clergyman of the Scottish Church he was bound by his contract with the Church to obey its Canons as a condition of holding office in that Church, and stated that "it was a mere abstract question involving religious dogmas, and *resulting in no civil consequences which would justify the interposition of a Civil Court.*"

"There is no authority in the Courts to take cognisance of the rules of a voluntary society—save only so far as it may be necessary for the due disposal and administration of property. A Court of Law will not interfere with the rules of a voluntary association *unless it is necessary to do so to protect some civil right*" (House of Lords' Cases, Vol. V., p. 36).

The plain meaning of this decision is that the Civil Courts distinctly decline to permit the decisions of the ecclesiastical tribunals of a voluntary religious society to be re-argued in matters of faith, doctrine, or discipline, *on their merits*. The Civil Courts will give coercive jurisdiction to the sentence of these tribunals, *if no civil right is involved*.

The civil rights of the person condemned would be involved :

(i.) If the Court were not constituted in accordance with the Canons and regulations of the Church, which the condemned person had contracted to observe and obey.

(ii.) If the proceedings of the Court were irregular, or in violation of the principles of justice, in which case the Church would be breaking her contract with the person condemned.

In no case, however, could the faith, doctrine, or discipline of the Church, or in other words, *the merits of the question* which formed the basis of the ecclesiastical trial, come before the Civil Court. The merits of the case were not argued before the Privy Council in the Colenso case. The question of contract alone was before them, and they decided that Dr. Colenso had not entered into a binding contract to submit to the sentence of his Metropolitan, Bishop Gray. The same procedure was observed in the case *Bishop Merriman v. Dean Williams*, which was before the Privy Council in 1882. The judgment did not touch the questions decided by the Diocesan Court of Grahamstown. They admitted the fact that Dean Williams had personally contracted to obey the Courts of the South African Church. But they decided that the trust deed of the building in which he officiated dissociated that building from the effec-

tive jurisdiction of the South African Church, and that on that ground he could not be ejected from it. The leading case which covers the ground we have been examining occurred in America.

In 1871 the Rev. C. E. Cheney, Rector of Christchurch, Chicago, was deprived of his Benefice by the sentence of the Ecclesiastical Court of the Bishop of Illinois for wilfully omitting the word "regenerate" from the Baptismal Service.

Mr. Cheney applied to the Civil Courts to stay proceedings, and the case came before the Supreme Court of the State of Illinois. The judge quoted with approval a previous decision of the American Courts, which stated that "the only cognisance which the Court will take of the case is to inquire whether there is a want of jurisdiction in the defendant (the Bishop) to do the act which is sought to be restrained. I cannot consent to review the exercise of any discretion on his part, or inquire whether his judgment, or that if the subordinate ecclesiastical tribunal can be justified by the truth of the case. I cannot draw to myself the duty of serving their action, or canvassing its manner or foundation, any further than to inquire whether, according to the law of the association to which both of the parties belong, they had authority to act at all" (*Walker v. Wainwright*, 16 Barbour's Report, p. 486).

The legal purport of these words amounts to this :

The Civil Court will satisfy itself that A is a Bishop, duly appointed under the rules of "the voluntary religious society" to which he belongs, and that B is a Clergyman, who is appointed under the same rules, and who holds his ecclesiastical position and property under contract of canonical obedience to A, as his Bishop, and under contract of submission to the decisions of the Ecclesiastical Courts of the aforesaid voluntary religious society, as administered in conformity to its Canon law and regulations by the aforesaid A, his Bishop. The judgment proceeds as follows: "As was said in *Forbes v. Eden*, the only remedy which the member of a voluntary association has, when he is dissatisfied with the proceedings of the body with which he is connected, is to withdraw from it. We have no right, and therefore will not exercise the power to dictate ecclesiastical law. We do not aspire to become *de facto* heads of the Church, and, by construction or otherwise, abrogate its laws and Canons. Freedom of religious profession and worship cannot be maintained, if the Civil Courts tread upon the domain of the Church, construe its Canons and rules, dictate its discipline, and regulate its trials" (*Chase v. Cheney*, "American Law Reports," Vol. XI., p. 95).

This noble deliverance of the Supreme Court of Illinois lays down the true relations of the Church and the Civil Power upon the broad basis of civil and religious liberty.

We have felt bound to trace accurately the chequered story of the relations of Church and State in England in order to make the contrast plainer between the results of the usurpation of Henry VIII. and the equitable concordat between the Church and the Civil Power, which enables the American Church and the Free Churches of the British Empire to manifest the true freedom of the Catholic Church unhindered by the encroachments and interference of the State.

It has been said that the examination of Dissenting trust deeds by an ordinary Civil Court, wherein arguments have been permitted touching the doctrines embodied in those trust deeds, proves that no Church is safe from the danger of having its faith, doctrine, and discipline debated in a Civil Court if the sentence of an ecclesiastical tribunal becomes the subject-matter of civil appeal. But it must be remembered that the cases are not parallel.

A Dissenting trust deed enumerates certain doctrines which must be preached in the building to which it applies. The minister occupying such a building *contracts* to preach certain prescribed doctrines. If he breaks his contract, and a process of civil ejectment is attempted, *the doctrines, which form the terms of his contract, are necessarily examinable by the Civil Court*, before it can adjudicate upon the question as to whether the minister has broken his contract or not.

The contracts between the Clergy of the Free Churches of the Anglican Communion and the authorities of the Church *do not, in any possible contingency, involve doctrine.* These contracts are simply *legal undertakings to submit to the decisions of the Ecclesiastical Courts,* and the judgments in *Forbes v. Eden,* and *Chase v. Cheney* are absolutely and finally conclusive as to the mode of their interpretation.

CHAPTER VIII.

THE CONSOLIDATION OF THE ANGLICAN COMMUNION.

WE have now traced the history of the relations between the Catholic Church and the Civil Power from primitive times to the present day. We have noted the disastrous effects of that Byzantine Christianity, which was the outcome of Constantine's patronage of the Church after the Edict of Milan. We have seen that the conflict between the mediæval Papacy and the Holy Roman Empire arose from ill-balanced conceptions of the rights of Cæsar, and of the Kingdom of God, which proved equally disastrous. We have traced the fluctuating course of the relations between Church and State in England, and shewn how the daughter Churches have emancipated themselves from the Erastian fetters which still bind their Mother, and have developed a vigorous and unfettered spiritual growth which is without parallel in the history of Christendom.

The problem that now awaits solution is the consolidation of the Anglican Communion. It is confessedly surrounded with the gravest difficulties. But the Catholic Church has never quailed in the

presence of perplexing issues and apparently insoluble problems. Her voice of faith says *dabit Deus his quoque finem*, and she resolutely addresses herself to the task before her.

The greatest stumbling block in the path of consolidation is, undoubtedly, the position of the Mother Church as a Church established by law.

When Bishop Moberly of Salisbury said that a Bishop of the Church of England "works, as it were, in chains," he did not, in the least, exaggerate the position.

The Bishop of Pittsburgh, writing to Archbishop Tait in 1874 to express the views of the American Bishops upon the Lambeth Conference, stated that "no topic should be introduced which must elicit discussions on the State relations of the Church of England. All the Bishops here at once recognise this as the right rule." The American Bishops felt that the relations between Church and State in England presented such difficulties that their discussion in the Lambeth Conference was impossible. It may be said that the other Bishops of the Free Churches were in cordial agreement with their American brethren upon this crucial point. If it is asked how the present position of the Church of England is a hindrance to the consolidation of the Anglican Communion, it may suffice to mention two important matters.

In the first place, the Anglican Communion desires to avoid the Scylla of a Canterbury Papacy, and the Charybdis of a number of Churches and Provinces drifting apart in the independence of anarchy. This can only be realised by substituting for the present undefined Primacy of Canterbury a true Patriarchate defined by strict canonical limits. But such a development is made impossible whilst the Archbishop of Canterbury is, practically, appointed by the Prime Minister for the time being. The Free Churches are very loyal to the Primacy of Canterbury. But they could not accept a Canterbury Patriarchate so long as the Patriarch is nominated by the secular power.

In the next place, the whole Anglican Communion needs one final Tribunal of Appeal. This tribunal must be a spiritual Court, and its procedure must be governed by the precedents of ancient Canon law. But the Church of England is at the present moment under the usurped jurisdiction of secular Courts, whose authority has been forced upon her in the teeth of her protests. If the rest of the Anglican Communion agreed to establish a spiritual Tribunal of Appeal, the Church of England could not agree to accept it so long as the present relations of Church and State continue to exist. It is not necessary to suggest drastic remedies to deal with the manifold

disharmonies of the connection between Church and State in England. It is equally unnecessary to suppose that the State would find it impossible to release the Church without confiscating her property.

The liberties of the English people have broadened down from precedent to precedent, until the Tudor tyranny has been supplanted by an enlightened democracy. The slave trade was first abolished, and then slavery itself was declared illegal. The English people paid vast sums of money to free the slave and to enforce the law that all men are free who are sheltered under the Imperial Flag of England. The only remnant of the Tudor tyranny that remains in England is the enslaved condition of that Church, which has been the Mother of English freedom.

The disabilities of Roman Catholics and of Jews have been removed, but Churchmen are told that it is quite unreasonable to imagine that the disabilities that have been imposed upon the Church of England by the Tudor tyranny can be removed without alienating her revenues. A man is tied and fettered by the strong hand of an oppressor. He pleads for his liberty, and proves that he has done nothing worthy of death or bonds. But the oppressor says, "I will not unloose your fetters unless you give me your purse." Surely this is not in consonance with the sense of justice with which God has endowed the English people. The best solution of the vexed problem is patience.

The fetters may gall, and natural impatience may desire to fling the purse at the oppressor, and say, "Take it, and let me go free." But it is the duty of the Church of England to wait upon events with the strength and patience of God. It is morally certain that the removal of her disabilities will be accompanied by a readjustment of her revenues, which will involve her in loss. But if with statesmanlike patience she consolidates her powers, and fosters her corporate life with its manifold energies, she may be able to make her own terms with the State and procure the removal of her disabilities without incurring more loss than the generosity of her own sons could immediately replace.

Meanwhile, it is the duty of the Free Churches of the Anglican Communion to maintain their Union with the Mother Church and their communion with one another by every available means in their power. There is one grand instrument of unity and consolidation which is almost unhindered and untouched by the disabilities and complications we have mentioned. The Decennial Conference of the Bishops of the Anglican Communion, under the Primacy and presidency of the Archbishop of Canterbury, has become a definitely recognised part of our Church organisation. Its decisions have no *legal* authority, but they have a unique *moral* weight, as expressing the "living voice" of the whole Anglican Communion. The Bishops met first in 1867, then in

1878, and afterwards in 1888. The Encyclical Letter and resolutions of the 145 Archbishops and Bishops of England, America, Ireland, Scotland, Canada, Australia, South Africa, New Zealand, India, the West Indies, and the other "autocephalous" Dioceses went forth in 1888 as the "consentient witness" of the Anglican Church throughout the world, and the gradual after acceptance of these decisions in each Church and Province has given to them an immense additional authority. Persons who accept that strange mixture of authority and explanatory subtilties, which is the present heritage of the Roman obedience, are never tired of asking Anglicans, "Where is the living voice of your Church?" We can answer confidently that, notwithstanding all our difficulties, we find it in the decisions of the Lambeth Conference.

But whilst we are thankful indeed for this General Council of Anglican Christendom, which has already formulated for future acceptance a workable scheme for a Central Spiritual Tribunal of Appeal (1867), we must utter a word of warning against any efforts after consolidation which strain the precedents of ancient Canon law. It was formerly deemed a part of the State restrictions on the Church that the Archbishop of Canterbury could not consecrate a Colonial Primate or Metropolitan without demanding from him the ordinary Suffragan's oath of obedience

contained in the Book of Common Prayer. The legal difficulty, was removed by Lord Blachford's Colonial Clergy Act of 1874, which enabled the Archbishop to dispense with the oath.

But, notwithstanding this fact, this Suffragan's oath to Canterbury was exacted from Dr. Barry when he was consecrated Primate of Australia in 1884, and from Dr. Saumarez Smith when he was consecrated as Dr. Barry's successor in 1890. It is utterly contrary to every principle of Canon law that one Primate should take a Suffragan's oath to another Primate. The Archbishops of York, Armagh, and Dublin have never been known to take such an oath, and it ought to have been equally impossible for the Primate of Australia. The only parallel to the circumstances of the oath demanded from the Primate of Australia is to be found in the oath which Roman Catholic Archbishops take to the Pope. It is a parallel which the Free Churches of the Anglican Communion are likely to resent, and it imperils the acknowledgment of the lawfully defined Patriarchate of Canterbury.

A preliminary step in the direction of unity and consolidation would be the adoption of the title of Archbishop by the Primates and Metropolitans of the Colonial Churches, which are in closer relationship to the See of Canterbury than the American, Irish, and Scottish Churches. We are thankful

that the Canadian Church has already adopted this step.

The Lambeth Conference of 1888 was asked by the General Synod of the Australian Church to consider the question of the adoption of the title of Archbishop by the Primate of Australia. The South African Church passed a resolution of similar tendency in the Provincial Synod of 1870. Other Colonial Churches have moved in the same direction. After careful consideration the Lambeth Conference adopted the report of a committee "which had no hesitation in expressing their opinion that there are cases of important Provinces in which distinct advantages would result from adopting the ancient and honoured title of Archbishop." In 1891 the South African Provincial Synod reaffirmed its resolution of 1870, which was as follows:—

"This Synod is of opinion that it would prevent misapprehensions as to the ecclesiastical *Status* of the several Provinces of the Anglican Communion as co-ordinate members of the same body, and might be expedient for other causes, if all the Metropolitans of these Provinces should hold the same title; and it requests the Bishops of this Province to take such measures as in their judgment may be best calculated to obtain sufficient ecclesiastical recognition of the title of Archbishop for the Metropolitan of this Province."

But it may be asked how this adoption of the title of Archbishop (the word which is used in the Prayer Book, and is understood of the lay people) will minister to the consolidation of the Anglican Communion.

It would tend to give effect to the report of the Upper House of Convocation of Canterbury in 1874 as to the Primacy of the See of Canterbury, which declared : " That the relation of his Grace the Archbishop of Canterbury to the other Bishops of the Anglican Communion be that of Primate among Archbishops, Primates, and Metropolitans." The South African Provincial Synod of 1876 repeated this declaration, coupled with a desire that the Primacy should be defined, in the following words :—

" That this Provincial Synod expresses its desire that the relation of his Grace the Lord Archbishop of Canterbury to the other Bishops of the Anglican Communion be that of Primate among Archbishops, Primates, Metropolitans, and Bishops, under due canonical limitations, and that these canonical limitations be defined, and further that the Bishops of this Province be respectfully requested, at the next meeting of the Pan-Anglican Synod, to take such measures as shall lead to the desired result."

We have already seen that it is impossible to define the Primacy, or Patriarchate, of Canterbury, *under due canonical limitations*, whilst the present

relations of Church and State in England remain as they are.

But if the Colonial Archbishops entered into a declaration of allegiance to the Primatial See of Canterbury, which did not compromise their position as Metropolitans, as the taking of a Suffragan's oath would do, there is no doubt that the adoption of the title of Archbishop by Colonial Primates and Metropolitans would consolidate the Anglican Communion, by placing them under the protection of the Rubric which forbids a Suffragan's oath to be taken at the consecration of an Archbishop, and at the same time causing them to acknowledge the position of the Archbishop of Canterbury as Primate among Archbishops, Primates, and Metropolitans.

We have now completed our task. We have surveyed, however hastily, the bulwarks of our Zion, and told the story of her weakness and her strength. As the "Church of the Reconciliation" she holds out her hands to the ancient historic Churches of the East and the West, and to our fellow members of the Body of Christ who have lost the ministrations of the Apostolic Ministry, which has been described as "the historic backbone of the Church."

The future lies open before her. As the spiritual home of the Anglo-Saxon race throughout the world she has unique and special missionary openings and

opportunities. The twofold witness of the Bible and Church is hers. As the representative of historical Christianity, she is a city set on a hill in the midst of the unhappy divisions of Christians, and she calls upon the loyalty of her sons and daughters to enable her to fulfil her lofty ideal as the centre and pivot of a reunited Christendom.

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